

Claim No: 405965

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA**

Cite as: Giles v. Gillies, 2012 NSSM 60

BETWEEN:

SHELLEY GILES

Claimant

- and -

KAREN GILLIES

Defendant

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**REASONS FOR DECISION**

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**BEFORE**

Eric K. Slone, Adjudicator

Hearing held at Dartmouth, Nova Scotia on October 2, 2012

Decision rendered on October 17, 2012

**APPEARANCES**

For the Claimant            self-represented

For the Defendant        self-represented

**BY THE COURT:**

[1] The Claimant Shelley Giles and the Defendant, Karen Gillies, were close friends until that friendship was damaged by a misunderstanding over money. Specifically, the Claimant is seeking repayment of monies that she says she loaned to the Defendant, with accumulated interest, in the amount of \$6,390.72.

[2] The Defendant believes that she has paid all of the money back and does not owe anything.

[3] There is no dispute that in or about March 2009, the Defendant was in some financial difficulty. Not only did she require some cash, but she was also more than \$3,000 into a line of credit at Wells Fargo bearing interest at the rate of 39.5%. The Claimant offered to open up a line of credit at her bank, the CIBC, at a much lower rate of interest. The idea was that this line of credit would be used to obtain the necessary funds for the Defendant, who would also make payments on it. However, only the Claimant had signing rights on the account.

[4] The main difference between the two versions of events offered by the Claimant and the Defendant concern how many times the Defendant actually obtained money from the line of credit. According to her evidence, she only received \$3,654.39 to pay off Wells Fargo as well as a further \$1,000 which she needed for some unspecified purpose, all on the very first day that the account was opened. According to handwritten records that she kept, over the space of approximately three years she paid \$5,900 in payments which, she believes,

should have been sufficient to cover all of the principal and interest owing on the funds advanced to her.

[5] The Claimant kept meticulous records of all activity on the account. On the very first statement which covers the months of March and April 2009, it shows several cheques and withdrawals totalling approximately \$6,500. Subsequent months show additional withdrawals as well as the payments that were starting to be made by the Defendant. Somewhat unwisely, the Claimant much later used the line of credit for her own purposes on more than one occasion. As a result, it cannot be said without some explanation that all of the activity on the line of credit is traceable to the Defendant. However, the Claimant appears to have done a good job of marking which transactions were her own, and she appears to have fully paid off any such transactions. Furthermore, it appears that all of the withdrawals for the benefit of the Defendant were made in the relatively early days of the account.

[6] Based on these records, combined with the testimony of the Claimant, it would appear that the Defendant received a great deal more money than she appears to recall. I am prepared to give her the benefit of the doubt, and conclude that she has simply forgotten these other instances where either cheques were written at her direction or large sums of cash were withdrawn for her.

[7] Of course, to reach this conclusion I have had to credit the Claimant as credible. Indeed, I found her to be quite credible and prefer her evidence to that of the Defendant. I find that her written records make fairly clear what has gone

on with this account, and the Defendant does indeed owe the amount of money that the Claimant seeks.

[8] Again, I believe the Claimant bears some of the responsibility for the misunderstanding, by failing to reserve this line of credit for the exclusive use of the Defendant. Perhaps her credit arrangements with her bank did not allow otherwise, but it would have likely been much easier to convince the Defendant that she was remembering things wrongly had there not been such intermingling of transactions.

[9] In the result, there will be judgment for the Claimant in the amount of \$6,390.72. I decline in my discretion to order any further interest. The Claimant is also entitled to her costs of issuing this claim in the amount of \$182.94.

[10] The total judgment amount is accordingly as follows:

Debt	\$6,390.72
Costs	\$182.94
Total	\$6,573.66

**Eric K. Slone, Adjudicator**