

Saint Regis Mohawk Tribal Court

Norman Tarbell,)
Complainant(s))
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-V-)
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John Clark,)
Respondent(s))

Case No.: 16-CIV-00007

DECISION AND ORDER

Procedural History

Plaintiff filed a complaint with the Court on June 15, 2016 for an alleged breach of an oral agreement stemming from non-payment of \$500 for the sale of an all-terrain vehicle to Respondent, as well as a request for repayment of \$100 loaned to the Respondent for wood to heat his home.

The Complaint and civil summons were served upon the Respondent via certified mail/return receipt on June 27. Proof of service was filed with the Court the same day.

Respondent filed his answer with the Court on June 28, 2016. The Respondent counterclaimed for \$750 alleging that he was not paid by the Complainant for automotive repair services.

Following several pre-trial conferences a trial was held in the matter on December 19, 2016 in Saint Regis Mohawk Tribal Court.

Factual Findings

The Complainant, Norman Tarbell, bears the burden of proof by preponderance of evidence.¹ Preponderance of the evidence is met “by providing superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.”² The Court finds the following facts were proven by a preponderance of the evidence.

In the fall of 2015 the Complainant agreed to sell a Q-Link 4 wheel all-terrain vehicle to the Respondent for \$500. Respondent took immediate possession of the all-terrain vehicle with the understanding he would pay Complainant in March 2016.

¹ SRMT Rules of Civil Procedure, Rule 17 (A) – (B).

² *Id.* at Rule 17(B).

The Complainant loaned Respondent \$100 to purchase wood for the heating of his home in early 2016.

Plaintiff attempted to collect the \$600 from Respondent multiple times to satisfy the oral agreement and loan obligation. No payments were ever received by the Complainant for the all-terrain vehicle or the loan for heating wood.

Respondent testified that he is owed \$750 for automotive repair work done on two vehicles owned by the Complainant.

The Complainant replied that he paid Respondent for the hours he spent repairing the vehicles and that the \$750 was a commission to be paid to the Respondent if he sold the vehicles himself.

Legal Conclusions

In order to address the merits of the action, it must be first determined that the Court possesses jurisdiction over this matter. The standard put forth by Mohawk laws that define this Court's jurisdiction in civil matters are articulated in the SRMT Civil Code Section II. The SRMT Civil Code Section II states in relevant part that "[t]he Tribal Court shall have civil jurisdiction over civil disputes . . . [d]isputes involving contracts (i) are negotiated, executed, or performed in Mohawk Indian Country."³

In regards to the case at bar, the dispute at issue involves an oral contract that was negotiated within Mohawk Indian Country by the parties. Furthermore the all-terrain vehicle at issue is located within the borders of the Saint Regis Mohawk Tribe Indian Reservation. The foregoing reasons establish that this Court possesses jurisdiction over this matter.

The Respondent made an oral offer to purchase the all-terrain vehicle from the Complainant for \$500. The offer was accepted by the Complainant with the stipulation that the sale price of the ATV would be paid by the Respondent in March 2016, resulting in an oral contract being entered into by the parties for the sale of the all-terrain vehicle.

A subsequent oral contract was entered into by the parties whereby the Plaintiff loaned the Respondent \$100 dollars for the purchase of wood to heat the home of the Respondent.

The Respondent argues the contract was modified to allow him to pay off the debt by working on Complainant's cars. However, the Complainant disputes this and a contract can only be modified when both parties agree and additional consideration is present.⁴ The Respondent has not provided proof that this became part of or modified the existing agreements between the

³ SRMT Civil Code § 2(B).

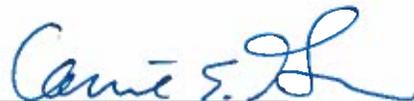
⁴ Pursuant to established Contract law and principles, the Court notes that additional consideration is required under these circumstances. In instances where there is a pre-existing legal duty additional consideration is not required. *See* RESTATEMENT (SECOND) OF CONTRACTS § 89 (1981). Further, the Court notes additional consideration is not required for a contract for the sale of goods. *See* U.C.C. Article 2 – SALES (2002). At this time the Saint Regis Mohawk Tribe has not enacted a written law governing the "sale of goods" and the Court declines to apply the U.C.C. Article 2 in this matter.

parties. The Court dismisses the Respondent's claim regarding payment for work on the cars without prejudice. The Respondent can choose to pursue this claim on its own in a separate action. Thus, the Court finds the original contract for \$500 and the subsequent contract for \$100 have been breached.

Conclusion

It is hereby **ORDERED** that the Complainant's request for relief in the amount of \$600 from the Respondent for the sale of the all-terrain vehicle and repayment of the loan for wood is **GRANTED**; And also hereby **ORDERED** that the Respondent reimburse the Complainant for Court fees in the amount of \$50 as requested at trial; It is hereby **ORDERED** that the Respondent's counterclaim is **DISMISSED**.

Signed by my hand this 4th day of January, 2017.



Carrie E. Garrow
Chief Judge
Saint Regis Mohawk Tribal Court

The parties have 30 days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals.

