



Bob Aaron bob@aaron.ca

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## Ruling will spur credit agencies to fix errors quickly

An Ontario court has given a strong incentive for banks and credit reporting agencies to act faster and more efficiently when a consumer brings attention to an error in his credit report.

In January 1994, Robert Neil Clark applied for a personal loan with the Royal Bank of Canada. He learned that he had an R-9 credit rating, dated 1993, due to unpaid retail debt he allegedly owed to the Bank of Nova Scotia. (R-9 and I-9 are the worst possible ratings in a credit report.)

Clark then contacted Equifax Canada Inc., a national credit reporting agency that reports information provided to it by its members. He was assured of an investigation and correction in case of an error.

From 1994 to 2000, he had difficulties obtaining credit. In the course of eventually receiving all the loan approvals, various banks often told him of the R-9 entry on his report.

He also reported repeated communications with both Scotiabank and Equifax over this matter. Finally, in 2000, Equifax confirmed that the delinquent loan was not against Clark, but another person with a similar first and last name but a different middle name.

Clark sued Scotiabank, which reported the R-9 rating in the first place, and Equifax, on the grounds that the continuing misrepresentation of his credit had affected his life and that he had suffered serious depression as a result. He argued that the Scotiabank and Equifax were negligent in their duties and were liable for his psychological problems.

In June, Justice Gerald F. Day of the Ontario Superior Court ruled in favour of Clark. Quoting an earlier Ontario court decision, he wrote that if credit-reporting agencies are negligent in gathering and reporting information, and if their report is inaccurate, their actions could cause creditors to either deny credit or charge more than usual.

Pointing to the importance of credit and credit ratings in our society, he said credit reporters had to be accurate, skilled and diligent.

Justice Day ruled that Scotiabank and Equifax failed to take reasonable care with Clark's credit rating. Equifax did nothing for many years, he wrote.

Scotiabank admitted its failure, and although Equifax could not be blamed for supplying information provided by the bank, it could be faulted for not responding to the plaintiff's repeated requests for clarification over several years.

Clark claimed damages for distress and loss of financial reputation as a result of the actions of Scotiabank and Equifax, but was unable to prove actual monetary loss. Instead, the judge awarded him \$5,000 against each defendant for intrusion on the financial integrity he is entitled to enjoy.

The Clark case, one hopes, will serve as a strong incentive for financial institutions and credit reporting agencies to be more responsive when consumers ask for corrections to their credit history.

Those with correct but poor credit ratings, however, should be aware that the only sure way to improve a rating is to work with creditors to show that payment habits have improved. Non-profit credit counselling services are available to help borrowers control their debts and solve financial problems permanently.

These services are available through member agencies of the Ontario Association of Credit Counselling Services at 1-888-746-3328, or at <http://www.indebt.org>.

Ontario's Ministry of Consumer and Business Services says consumers should be wary of companies with advertisements on the lines of: Credit problems? No problem! Or, Erase bad credit guaranteed.

Credit repair companies may charge as much as \$1,000 but do not improve the clients' credit rating. In fact, no one can legally remove accurate and timely negative information from a credit report.

Under changes made to Ontario's Consumer Reporting Act in December, 2000, it is now illegal for credit repairers to accept advance payment, or to charge a fee at all, unless their services demonstrably improve the consumer's credit file.

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*Bob Aaron is a Toronto real estate lawyer. He can be reached by e-mail at [bob@aaron.ca](mailto:bob@aaron.ca), phone 416-364-9366 or fax 416-364-3818. Visit <http://www.aaron.ca>*

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