



# Civil Resolution Tribunal

Date Issued: May 6, 2022

File: AB-2021-009673

Type: Accident Benefits

Civil Resolution Tribunal

Indexed as: *Alliott v. ICBC*, 2022 BCCRT 547

BETWEEN:

SUMARNG ALLIOTT

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

**RESPONDENT**

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## REASONS FOR SUMMARY DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This is a summary decision of the Civil Resolution Tribunal (CRT) about a vehicle's total loss value.

2. The applicant, Sumarng Alliott, says they were injured as a result of a motor vehicle accident on August 30, 2021. The respondent insurer, Insurance Corporation of British Columbia (ICBC), insures the applicant.
3. Initially, in their Dispute Notice, the applicant sought coverage for accident benefits, specifically healthcare and rehabilitation costs, as well as said they were underpaid for the value of their vehicle. The applicant since withdrew their accident benefits claim and now seeks only the difference between what they say their vehicle was worth and what they were paid by ICBC.
4. ICBC says the issue of the vehicle's value is outside the CRT's jurisdiction, given section 176 of the *Insurance (Vehicle) Regulation* (IVR).
5. CRT staff referred this dispute to me, to determine on a preliminary basis whether the CRT should resolve this dispute, or refuse to resolve it due to lack of jurisdiction under section 11 of the *Civil Resolution Tribunal Act* (CRTA).
6. The applicant is self-represented. ICBC is represented by an employee.

## **JURISDICTION AND PROCEDURE**

7. These are the formal written reasons of the CRT. The CRT has jurisdiction over motor vehicle injury disputes, or "accident claims" brought under section 133 of the *Civil Resolution Tribunal Act* (CRTA). Section 133(1)(a) of the CRTA gives the CRT jurisdiction over the determination of entitlement to accident benefits.
8. The CRT has jurisdiction over small claims brought under section 118 of the CRTA. Where permitted by section 118, in resolving this dispute, the CRT may order a party to do or stop doing something, pay money, or make an order that includes any terms or conditions the CRT considers appropriate.

## ISSUE

9. The issue on this preliminary referral is whether the CRT should refuse to resolve this dispute under section 11 of the CRTA.

## EVIDENCE AND ANALYSIS

10. In making this summary decision, I have reviewed the parties' Dispute Notice, Dispute Response, and submissions on the jurisdiction issue.
11. First, there is a question about whether this claim was brought under the correct CRTA jurisdiction. As noted, the dispute was initially about accident benefits, under section 133(1)(a) of the CRTA, the CRT's accident claims jurisdiction. After withdrawing the applicant's accident benefits claim, all that remains is a claim for compensation for the applicant's vehicle value. This is a claim for coverage under Part 11 of the *Insurance (Vehicle) Act* (IVA), "Basic Vehicle Damage Coverage".
12. CRTA sections 132 and 133 say that the CRT has jurisdiction under its accident claims jurisdiction to determine a party's entitlement to benefits paid or payable under Part 10 of the IVA, "Enhanced Accident Benefits". There is no express jurisdiction under the CRT's current accident claims jurisdiction to decide claims under Part 11 of the IVA.
13. Given the applicant's claim is for less than the CRT's small claims monetary limit of \$5,000, their claim could proceed through the CRT's small claims jurisdiction. However, given my conclusions below, I find nothing turns on whether this claim is brought under the CRT's accident claims or small claims jurisdiction, as I refuse to resolve it in any event.
14. For background, the applicant's vehicle was assessed to be a "total loss" on September 13, 2021. On September 21, 2021, ICBC made the applicant an offer for the settlement of their vehicle's value, which the applicant rejected. The applicant says ICBC paid them \$4,020.44 for the vehicle's total loss value, but says it was

actually worth \$8,000. The applicant seeks to be paid the difference between the vehicle's alleged value and what they were actually paid.

15. ICBC says that under section 5(5) of the applicant's ICBC Autoplan Optional Insurance Policy, ICBC's liability for the vehicle's loss or damage is limited to the cost of repairing or replacing the vehicle and its equipment, the declared value of the vehicle and its equipment, or the actual cash value of the vehicle and its equipment, whatever is less. Notably, ICBC did not submit a copy of the applicant's policy as evidence.
16. Further, ICBC says that the applicant's dispute is a coverage dispute under section 28 of the *Basic Vehicle Damage Coverage Regulation* (BVDCR). At the same time, ICBC says that it is a coverage dispute under sections 176 and 177 of the IVR. These arguments are inconsistent. Because, as noted above, I do not have the applicant's policy before me, I am unable to determine which regulation applies here. So, I have considered the issue under both the IVR and the BVDCR. I turn to the relevant legislation.
17. Section 176 of the IVR defines a "coverage dispute" as including a dispute between the vehicle's owner and ICBC about "the amount payable" for the vehicle's direct loss. I find the applicant's claim for the difference in value falls within a coverage dispute under section 176. Section 176(2) of the IVR says that subject to section 176(3), unless the parties to the coverage dispute voluntarily resolve it, the dispute **must** be resolved by arbitration under section 177 of the IVR (my emphasis added). Section 176(3) says a coverage dispute must not be submitted more than 2 years after the loss, and here the loss occurred less than 2 years ago, on August 30, 2021.
18. As of May 1, 2021, ICBC's vehicle insurance scheme changed. Part of the changes included creating the "Basic Vehicle Damage Coverage" section (Part 11) of the IVA, and the accompanying *Basic Vehicle Damage Coverage Regulation* (BVDCR). These apply to accidents that occur on and after May 1, 2021.

19. Section 174 of Part 11 of the IVA says that ICBC must indemnify the applicant for their vehicle's damage or loss, subject to a reduction for the applicant's degree of responsibility for the accident, if any.
20. Section 28 of the BVDCR says that a dispute between ICBC and an insured (the applicant) about the nature and extent of repairs or replacement, the value of damage to or the loss of the insured's vehicle, or the price received or estimated price that would have been received from the sale of the damaged vehicle, are "coverage disputes". Similar to above, I find the applicant's claim falls within a coverage dispute under section 28 of the BVDCR.
21. Section 29 of the BVDCR says that coverage disputes, unless resolved by ICBC and the applicant, **must** be resolved by arbitration under section 30 (my emphasis added). Section 29 further says a coverage dispute must not be submitted for arbitration more than 2 years after the accident date. Section 30 of the BVDCR sets out the arbitration process.
22. The parties have not voluntarily resolved this dispute, pursuant to section 176 of the IVR or section 29 of the BVDCR, given this CRT proceeding. So, under either the IVR or the BVDCR, I find the applicant's claim must be resolved through arbitration and therefore the CRT lacks jurisdiction to resolve this claim. Given this, I refuse to resolve this claim under section 11(1)(a)(i) and (1)(e) of the CRTA.

## DECISION AND ORDER

23. I refuse to resolve this dispute under section 11 of the CRTA.

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Andrea Ritchie, Vice Chair