Civil Resolution Tribunal

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Type: Motor Vehicle Injury

Civil Resolution Tribunal

Indexed as: *McNary v. Gingras-Fox*, 2021 BCCRT 1317

B E T W E E N :

RICKY MCNARY

APPLICANT

A N D :

SERGEI GEOFFREY GINGRAS-FOX and LEVI GINGRAS-FOX

RESPONDENTS

REASONS FOR DECISION

Tribunal Member: Eric Regehr

INTRODUCTION

1. This Civil Resolution Tribunal (CRT) dispute is about a motor vehicle accident that took place on June 5, 2020, in Vancouver, BC. The applicant, Ricky McNary, was exiting a parking lot onto Manitoba Street when he collided with a blue truck travelling on Manitoba Street. The respondent, Levi Gingras-Fox, was driving the truck. The

other respondent, Sergei Geoffrey Gingras-Fox, owned it.[i] Because the respondents share a last name, I will refer to them by their first names, intending no disrespect.

2. Mr. McNary says that the accident was Levi's fault because Levi swerved into him and was speeding. The respondents say that the accident was Mr. McNary's fault because he drove into the side of the truck when it was there to be seen. The respondents also say he was on his phone.

3. The parties agree that Mr. McNary's non-pecuniary (pain and suffering) damages are $5,627, the maximum amount for a "minor injury" as defined by the *Insurance (Vehicle) Act* at the time. Mr. McNary also claims $10,000 in future care costs and $5,000 in "out of pocket expenses for his injuries". Mr. McNary initially claimed damages for lost income but withdrew those claims during the CRT's facilitation process.

4. Mr. McNary is represented by a lawyer, Ryan Kusuhara. The respondents are both represented by an Insurance Corporation of British Columbia (ICBC) employee.

JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons. 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)(c) of the CRTA and section 7 of the *Accident Claims Regulation* give the CRT jurisdiction over the determination of liability and damages claims, up to $50,000.

6. On March 2, 2021, the BC Supreme Court ordered that sections 133(1)(b) and 133(1)(c) of the CRTA were unconstitutional and no longer in effect. It also ordered that section 16.1 of the CRTA was unconstitutional to the extent it applied to these provisions. The BC Supreme Court's decision was appealed. The BC Court of Appeal granted a partial stay of the BC Supreme Court's order on April 8, 2021. This means that parts of the BC Supreme Court's order are suspended until the BC Court of Appeal makes its final decision. The partial stay allows the CRT to resolve claims

under sections 133(1)(b) and (c) of the CRTA. It also allows a court to resolve these types of claims without needing to consider whether the claim should be heard by the CRT instead.

7. The CRT provided Mr. McNary with information about the BC Supreme Court's decision and the BC Court of Appeal's partial stay. The CRT asked Mr. McNary whether he wanted to continue with the CRT dispute or file a court proceeding instead. He chose to continue at the CRT.

8. Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.

9. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. While not determinative, I note that neither party requested an oral hearing. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

10. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

11. In his submissions, Mr. McNary raised concerns about the impartiality and fairness of the CRT's process. He submits that during the facilitation phase, the CRT's staff

made decisions that appeared to favour the respondents, who are represented by ICBC. In particular, while the parties were uploading their evidence to the CRT's online portal, the respondents objected to Mr. McNary's statement, which they said was argument and not evidence. CRT staff initially agreed with the respondents and removed the statement from the evidence folder. I agree with Mr. McNary that the CRT staff made a mistake in concluding that the statement was improper and in removing it from the folder. However, I find that nothing turns on it because a week after removing the evidence, CRT staff reversed the decision and re-uploaded the statement into evidence. The statement was in evidence before me. In other words, I find that any procedural unfairness was corrected, and Mr. McNary was not prejudiced. In any event, Mr. McNary did not ask for any specific remedy as a result of this error.

12. By way of explanation, CRT staff likely made this error because when parties are unrepresented, the CRT staff typically suggests that they not to submit a separate written statement into evidence. Instead, the CRT staff suggests that they include their version of events in their written submissions. This is simply to avoid repetition and is not specific to cases involving ICBC. However, this practice does not apply when parties are represented.

ISSUES

13. The issues in this dispute are:
    a. Who is liable for the accident?
    b. If the respondents are fully or partially liable, what are Mr. McNary's damages?

BACKGROUND

14. In a civil claim such as this, Mr. McNary as the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.

15. The following facts are undisputed. The accident occurred as Mr. McNary exited a restaurant parking lot onto Manitoba Street, just south of the intersection with Southwest Marine Drive in Vancouver, BC. To the south of the parking lot exit, which was to Mr. McNary's left, Manitoba Street has a single lane of traffic in each direction, although it is wide enough for parallel street parking. To the north, the single lane splits into 2 lanes as it approaches the intersection with Southwest Marine Drive. Manitoba Street does not become noticeably wider when it splits into 2 lanes.

16. The accident occurred on June 5, 2020, at around 3:45pm. The weather was clear and dry. Mr. McNary intended to drive into another parking lot directly across Manitoba Street. Levi was driving north on Manitoba Street. The parties dispute several details, but in essence this dispute is about who hit who. The respondents say that Mr. McNary drove forward into the side of the truck as Levi passed by, while Mr. McNary says that Levi swerved to the right as they passed Mr. McNary, striking the front of his car.

17. According to accident scene photos, Mr. McNary's car was damaged across the front of the car. The main visible damage to the truck was to the right rear door, with some visible damage also to the right front door and right side of the truck bed.

EVIDENCE AND ANALYSIS

Applicable Law

18. Section 144 of the *Motor Vehicle Act* (MVA) says that drivers must drive with due care and attention and with reasonable consideration for others, which reflects drivers' common law duty to drive with reasonable care. Section 176(2) says that a motorist exiting a driveway or private road must yield to any traffic on the main road that is an immediate hazard. Section 214.2 prohibits using a handheld mobile phone while driving.

19. Together, this means that as the driver on the main road, Levi had the right of way. Mr. McNary had to yield to Levi when entering Manitoba Street. As the driver with the

right of way, Levi was entitled to assume that Mr. McNary would not leave the parking lot unless it was safe to do so. However, Levi still had to act reasonably to avoid hitting Mr. McNary's vehicle, even if Mr. McNary broke the rules of the road by exiting the parking lot when it was not safe. See *Pacheko (Guardian ad litem) v. Robinson*, 1993 CanLII 383 (BC CA), at paragraph 18. Levi also had a duty to drive with reasonable care as they went past Mr. McNary. This includes driving a safe speed in the circumstances and reacting reasonably to hazards.

Evidence on Liability

20. In addition to the parties, there are 3 witnesses who provided statements either to Mr. Kusuhara or to ICBC: WK, KH, and JS. These 5 people give somewhat inconsistent accounts of what happened. I must weigh their evidence. As in most car accident cases, different witnesses have different memories of what happened. The relevant details occur quickly and over a matter of just a few seconds. In general, I accept that most witnesses and parties do their best to accurately describe what they remember seeing. However, even an honest witness's memories can easily be wrong. With that in mind, I must consider each person's ability to observe what happened, whether their evidence seems unreasonable, impossible, or unlikely, whether they have a motivation to be untruthful, and whether their evidence is consistent with common human experience. See *Rattu (Litigation Guardian of) v. Biln*, 2021 BCSC 208, at paragraphs 27 to 29.

21. I will start with the parties' evidence. As mentioned above, Mr. McNary provided a signed statement. He also provided a diagram. I summarize his evidence as follows. As he exited the restaurant parking lot, a semi truck turned from Southwest Marine Drive and stopped in the southbound lane of Manitoba Street. Mr. McNary stopped because the semi was partially blocking his intended path across the street. At this point, his front tires were on Manitoba Street and the front of his car jutted into the street. He paused there while he assessed whether he could safely cross the street. Mr. McNary looked left and saw Levi's truck "quite a few blocks" down the street. He turned to the right to see if any vehicles were trying to get around the semi, and then

back to the left. Levi's truck was still "a few blocks away". Just as he put his foot on the gas to begin crossing Manitoba Street, Levi struck his vehicle. He believes that Levi cut from the middle to the right of the lane because Levi intended to turn right on Southwest Marine Drive. Levi was driving "quite fast".

22. The respondents do not make any arguments about the weight I should give to Mr. McNary's evidence. I find that it is reasonably consistent with his previous statements to ICBC. Other than the fact that he is an interested party, I see no reason to doubt the credibility or reliability of his evidence. That said, I find that it lacks some key detail because he does not say what happened between when he saw Levi several blocks away and the impact.

23. Turning to Levi's evidence, in their initial report to ICBC, they said that they were driving north on Manitoba Street. Levi could see Mr. McNary look right but not left, so Mr. McNary did not see Levi approaching. Levi said that Mr. McNary exited the parking lot and hit the side of their truck. Levi later confirmed the accuracy of these notes in an email to an ICBC adjuster but declined to provide any further detail.

24. Mr. McNary describes Levi's evidence about how the accident happened as "sparse". I agree. In particular, Levi says nothing about their path of travel and nothing about their speed.

25. Mr. Kusuhara interviewed KH over the phone. KH later confirmed the accuracy of an email summary of that interview. KH also answered some email questions from an ICBC adjuster. Mr. McNary was KH's real estate agent. KH was across the street from the restaurant waiting for Mr. McNary to pick them up. KH said that they had a clear view of the accident. KH saw Levi's truck speed up as it went north. KH was "certain" that Levi was going over 50 km/h. KH said that Levi cut suddenly to the right and hit Mr. McNary. KH was unsure whether Mr. McNary was moving.

26. As with KH, Mr. Kusuhara interviewed JS over the phone and had JS confirm the accuracy of a summary of that interview. JS also answered some email questions from an ICBC adjuster. JS knew Mr. McNary because they were considering investing

in property together. Like KH, JS was across Manitoba Street at the time. JS saw Mr. McNary inch out of the parking lot and stop. JS saw Levi cut driving "very fast" and suddenly veering to the right to cut around a black SUV that was driving north in Manitoba Street's emerging left lane. Levi did not signal before doing this. Levi ran into Mr. McNary, who was stopped at the time of impact. JS was "certain" that Levi was going over 60 km/h before the accident.

27. The respondents argue that I should put less weight on KH and JS's evidence for 2 reasons. First, the respondents argue that neither KH nor JS are truly "independent" witnesses because they both had business relationships with Mr. McNary. I do not accept that being his client or potential business partner significantly undermines these witnesses' credibility. There is no suggestion that either of them has any interest in this dispute's outcome. I agree with Mr. McNary that the fact that both witnesses agreed to answer questions from an ICBC adjuster suggests that they were open and forthright.

28. Second, the respondents argue that neither KH nor JS have "specialized expertise" in measuring vehicle speed. So, the respondents say I should put no weight on their observations about Levi's speed. However, I find that roughly estimating the speed of a vehicle is within ordinary human experience that does not require expertise.

29. While I have not accepted the respondents' arguments addressed above, I do have concerns about the reliability of JS's evidence. First, no other witness mentioned an SUV driving north on Manitoba, while JS's evidence suggests that Levi dramatically swerved around an SUV. I find that this if this detail was accurate, other witnesses would have noted it because it is significant and noteworthy. In addition, I find that JS likely could not have seen whether Levi signalled before swerving right since Levi's right signals were on the other side of Levi's vehicle from where JS was standing. Finally, I am somewhat skeptical that JS could have seen that Mr. McNary remained stopped because Levi's truck would have blocked JS's view in the last moments before the impact. I have therefore put less weight overall on JS's evidence.

30. In contrast, KH admitted that they could not see whether Mr. McNary was moving from their vantage point. I find that this admission enhances the credibility of KH's evidence. I find that KH's evidence was reasonably consistent over time.

31. Finally, WK made a telephone statement to ICBC about an hour after the accident. They said that they were coming out of the parking lot across Manitoba Street, facing Mr. McNary. WK said that they could see Mr. McNary's phone to his ear. WK said that Mr. McNary drove out directly into the side of the truck without looking. WK later confirmed the accuracy of ICBC's notes in an email to an ICBC adjuster. Like Levi, WK declined to provide a more detailed statement. According to Mr. McNary, WK also declined to answer his questions.

32. I agree with Mr. McNary that WK's account lacks detail. WK said nothing about Levi's path of travel or speed. However, I find that the few details WK does report are entitled to considerable weight because they reported them so shortly after the accident, when their memory would have been fresh.

Expert Evidence

33. The respondents provided expert evidence from 2 people. First, ICBC retained David Little, a forensic engineer, to assess the information in the truck's event data recorder. According to the respondents, David Little has over 30 years of experience investigating motor vehicle collisions and specializes in testing and interpreting event data recorders. Mr. McNary does not dispute their qualifications.

34. David Little determined that the event data recorder did not record anything because the collision was not severe enough to trigger it. This finding is undisputed. ICBC later asked David Little to provide an opinion about the mechanics of the accident, including the 2 drivers' speeds at the moment of impact. However, it is unclear what information ICBC gave David Little for this opinion. The email from ICBC asking for it included the dollar value of the damage to Mr. McNary's car and then simply said "here you go". It is clear from the detail in David Little's opinion that ICBC provided them with more information, but it is unclear what.

35. CRT rule 8.3(4) says that a party must provide all correspondence with an expert for their opinion to be admissible. While CRT rule 1.2(2) says that I can waive the strict requirements of any CRT rule, I find that this would not be appropriate here. I find that without knowing what information David Little considered, I cannot rely on their opinion. I therefore do not admit David Little's opinion as expert evidence and have not considered it in making this decision.

36. Second, ICBC material damage estimator Roy Klymchuk provided an opinion about how the accident likely happened. Roy Klymchuk says that they are trained in accident reconstruction. Again, Mr. McNary does not dispute their qualifications. However, Mr. McNary says that I should not admit Roy Klymchuk's evidence because the respondents did not comply with the timelines in CRT rule 8.3(1). This rule says that a party must provide expert evidence to all other parties either within 21 days of the case manager telling the parties that the facilitation process has ended, or another deadline set by the case manager.

37. The case manager told the parties that the facilitation process was over on June 23, 2021. On July 8, 2021, the CRT sent an email to the parties setting a deadline of July 29, 2021, to provide all their evidence. This email did not explicitly mention expert evidence. The respondents uploaded Roy Klymchuk's evidence on July 29, 2021.

38. Mr. McNary says that the CRT's rules required the respondents to provide Roy Klymchuk's opinion by July 14, 2021, which is 21 days after June 23, 2021. The respondents say that the CRT's deadline to submit all evidence by July 29, 2021, included expert evidence. I agree with the respondents. I see no reason why expert evidence would be subject to a different deadline than other evidence, especially since the CRT's process is meant to be simple. I also note that while the email did not explicitly say that the deadline applied to expert evidence, it did include a link to a list of "common types of evidence", which included expert evidence. So, I find that by setting a deadline for all evidence, the case manager also set a deadline for expert evidence under CRT rule 8.3(1).

39. In any event, I disagree with Mr. McNary that he would be prejudiced by "late" expert evidence because it would deprive him of the opportunity to provide his own expert evidence. The CRT's rules do not contemplate rebuttal expert reports. If Mr. McNary wanted to rely on expert evidence, he had to provide it by the same deadline as the respondents regardless of whether the respondents provided their own expert evidence. Mr. McNary did not provide any expert evidence.

40. Mr. McNary did not otherwise object to Roy Klymchuk's opinion. Previous CRT decisions have discussed expert evidence from an ICBC employee. Largely, the weight given to this expert evidence depends on the level of ICBC's interest in the outcome of the dispute and the context in which the ICBC employee gave their opinion. See *Wadhera v. ICBC*, 2021 BCCRT 645, *Kang v. Nielsen*, 2021 BCCRT 879, and *Ip v. ICBC*, 2021 BCCRT 1175. Previous CRT decisions are not binding on me but I agree with this approach.

41. Here, an ICBC adjuster asked for Roy Klymchuk's opinion shortly after Mr. McNary filed his Dispute Notice. The adjuster referred to the 2 drivers as the "applicant" and "respondent", so I find Roy Klymchuk knew what result was in ICBC's interest. However, I find that Roy Klymchuk is sufficiently neutral because their job includes assisting ICBC with determining fault for accidents, as it is required to do as both parties' insurer. I therefore admit Roy Klymchuk's evidence as expert evidence. However, as in *Kang*, I have treated Roy Klymchuk's opinion with caution.

42. Roy Klymchuk said that the damage on the truck's side included lateral deformation that was consistent with Mr. McNary going faster than simply "creeping out" and that it was unlikely that the damage was solely from the truck changing lanes. Second, they said that the truck did not likely have "significant" speed because the car had "very little side sway", a phrase that they do not explain. I find that these opinions are somewhat subjective and vague, particularly the opinion about Levi's speed. I therefore find the opinion about speed unhelpful and put no weight on it. However, I do place some weight on the opinion that Mr. McNary was going faster than "creeping out", which I find means that he had put pressure on the gas. I find that this opinion

is consistent with common experience, as there is a very large primary dent in the side of the truck, which suggests a strong impact from Mr. McNary's vehicle moving forward.

43. Mr. McNary argues that as a matter of common sense, the fact that his license plate was bent outwards and not inwards suggests that there was no forward movement of his car at the point of impact. The respondents say that this evidence goes beyond ordinary experience and therefore would require expert evidence. I agree with the respondents on this point. I find that it there is nothing obvious about what the license plate damage says about the vehicles' movement.

Liability Assessment

44. Based on the above analysis, I place the most weight on Mr. McNary's, KH's, and WK's evidence. I find that the 2 most important disputed facts are whether Mr. McNary was driving forward and whether Levi was swerving right when they collided.

45. On the first point, I find that there is no persuasive evidence that Mr. McNary was stopped. By his own admission, Mr. McNary had already taken his foot off the brake and may have pressed the gas. WK said that Mr. McNary drove forward, which is consistent with Roy Klymchuk's opinion. I find that Mr. McNary had pressed the gas and was driving forward when he collided with Levi.

46. On the second point, there is no evidence to contradict Mr. McNary and KH's statements that Levi swerved to the right just before the accident. As mentioned above, Levi said nothing about their path of travel before the accident. I therefore accept Mr. McNary and KH's evidence on this point. I also find that Levi was likely going over the speed limit because Levi does not deny it. However, I find that there is insufficient evidence to prove that Levi's speed was excessive in the circumstances or that their speed was a cause of the accident.

47. Finally, I turn to the issue of whether Mr. McNary was on the phone at the time as WK alleges. Notably, Mr. McNary does not deny WK's allegation in his statement. In submissions, he says that "even if" he had his phone to his ear, it is "uncertain" exactly

when. While it is true that WK's statement does not explicitly say that Mr. McNary had his phone to his ear when he began driving forward, I find that this is likely what WK meant because the detail would not be worth mentioning otherwise. Also, Mr. McNary could have resolved any "uncertainty" around when he was on the phone by clarifying his phone use in his statement. On balance, I find that Mr. McNary was likely on the phone in the lead up to the accident, including when he began driving forward.

48. With that, I find the following facts. Mr. McNary was stopped at the parking lot exit with the front of his car in the street. As Levi approached from the south, they were driving in the leftmost part of Manitoba Street's single lane. Just before Levi passed by Mr. McNary's car, Levi swerved towards the upcoming right lane on Manitoba Street. At around the same time, Mr. McNary pressed the gas to start crossing Manitoba Street. The collision occurred because of a combination of Levi's rightward swerve and Mr. McNary's forward motion. I am satisfied that the accident would not have occurred without both actions.

49. Mr. McNary argues that Levi's maneuver was unsafe and fell below the standard of a reasonable driver in the circumstances. I agree. I find that as Levi approached the parking lot exit, Mr. McNary's vehicle was already partially in Manitoba Street. It was there to be seen. Given that Mr. McNary was pointing straight ahead, it should have been apparent to Levi that Mr. McNary intended to either cross Manitoba Street or turn left. In either case, Mr. McNary's intended path would cross Levi's path. In these circumstances, I find that it was unsafe for Levi to veer away from the centre line and towards Mr. McNary, especially since there was still only 1 lane of travel.

50. Turning to Mr. McNary, the respondents say that Mr. McNary breached section 176(2) of the MVA by leaving the parking lot when Levi's truck was an immediate hazard. I agree. Mr. McNary said that he did not see Levi between when Levi was several blocks away and the impact. I find that this shows that he did not adequately assess whether it was safe to proceed when he started to cross Manitoba Street. Regardless of Levi's speed and his path of travel within the large lane, it was there to be seen as

it approached Mr. McNary. I find that it was not safe for Mr. McNary to begin to cross Manitoba Street.

51. Therefore, I find that both drivers were negligent. The next question is the apportionment of liability. When 2 people are both at fault for an accident, their liability is assessed based on how much their conduct fell below a reasonable standard. See *Alberta Wheat Pool v. Northwest Pile Driving Ltd.*, 2000 BCCA 505, at paragraph 46.

52. I find that Mr. McNary's conduct was a more significant departure from the standard of a reasonable driver. Talking on the phone while driving is an intentional act that is notoriously dangerous. See *R. v. Nikirk*, 2020 BCPC 10, at paragraph 45. It is also a breach of section 214.2 of the MVA. Mr. McNary's failure to see Levi after Levi was still several blocks away, a relatively long period of time, suggests that he was indeed distracted for a relatively long time in the context. In contrast, Levi's lapse in judgment was momentary.

53. I find McNary 75% responsible for the accident.

Damages

54. As mentioned above, the parties agree that Mr. McNary's non-pecuniary damages are $5,627. Because I have found him 75% liable, he is entitled to $1,406.75. It is undisputed that Levi was driving the truck with Sergei's consent, so I find that Sergei is vicariously liable for Levi's negligence under section 86 of the MVA. I therefore find that both respondents are responsible for Mr. McNary's damages.

55. Mr. McNary also claims $10,000 in future care costs. In his submissions, he says that he "will benefit from ongoing treatment", namely massage therapy and physiotherapy. He does not explain his claim further. In order to receive the costs of future care, Mr. McNary must establish what costs are reasonably necessary to promote his mental and physical health going forward. Mr. McNary must provide medical evidence to support the claim. See *Aberdeen v. Zanatta*, 2008 BCCA, at paragraphs 41 and 42.

56. There are 3 medical records in evidence. First, on June 10, 2020, Mr. McNary's general practitioner recommended physiotherapy and massage therapy. Second, on August 7, 2020, his physiotherapist recommended 2 to 3 appointments per week for 12 weeks. Third, on October 6, 2020, his kinesiologist recommended 1 appointment per week for 12 weeks. There is no evidence about whether Mr. McNary followed any of this advice, or indeed whether he has sought any further treatment at all for his injuries. In his statement, signed more than a year after the accident, he said that he "hopes" to seek massage therapy and physiotherapy. I find that this evidence falls far short of proving that Mr. McNary is entitled to an award for the cost of future care. I dismiss this claim as unproven.

57. Mr. McNary says nothing in his submissions about his $5,000 claim for "out of pocket expenses". He does not say what the claim is for, and there are no receipts or invoices in evidence. I dismiss this claim as unproven.

FEES, EXPENSES, AND INTEREST

58. Under section 2 of the *Court Order Interest Act* (COIA), prejudgment interest must not be awarded on non-pecuniary damages resulting from personal injury. So, I award no prejudgment interest.

59. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their CRT fees and dispute-related expenses. The parties were each partially successful. I find that they are each entitled to half of their CRT fees. Mr. McNary paid $175, half of which is $87.50. The respondents paid $50, half of which is $25. The net result is that Mr. McNary is entitled to reimbursement of $62.50 for CRT fees. None of the parties claimed any dispute-related expenses. In particular, Mr. McNary did not request reimbursement of his legal fees.

ORDERS

60. Within 30 days of the date of this order, I order the respondents to pay Mr. McNary a total of $1,469.25, broken down as follows:

a. $1,406.75 in damages, and

b. $62.50 for CRT fees.

61. Mr. McNary is also entitled to post-judgment interest under the COIA.

62. I dismiss Mr. McNary's remaining claims.

63. Under section 57 and 58 of the CRTA, a validated copy of the CRT's order can be enforced through the Supreme Court of British Columbia or the Provincial Court of British Columbia if it is under $35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

Eric Regehr, Tribunal Member

[i] The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure that the CRT respectfully addresses them throughout the process, including in published decisions. As mentioned above, Levi Gingras-Fox and Sergei Geoffrey Gingras-Fox are represented by ICBC. ICBC did not provide their pronouns and titles. Because of this, I will use gender neutral pronouns for them throughout this decision, intending no disrespect.