



Civil Resolution Tribunal

Date Issued: November 20, 2023

File: AR-2023-000580

Type: Accident Claims

Category: Accident Responsibility

Civil Resolution Tribunal

Indexed as: *Yung v. ICBC*, 2023 BCCRT 995

BETWEEN:

JULIA YUNG

APPLICANT

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about accident responsibility. The applicant, Julia Yung, was in a motor vehicle accident on August 30, 2022. Ms. Yung says the respondent insurer, Insurance Corporation of British Columbia (ICBC), incorrectly held her 100% responsible for the accident. Ms. Jung says the other driver was fully responsible.

2. ICBC says it acted reasonably and correctly determined responsibility.
3. Ms. Yung is self-represented. ICBC is represented by an authorized employee.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over accident claims brought under section 133 of the *Civil Resolution Tribunal Act* (CRTA). Section 133(1)(d) of the CRTA and Part 2 of the *Accident Claims Regulation* (ACR) give the CRT jurisdiction over accident responsibility determinations.
5. Section 39 of the CRTA says that the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
6. 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.

ISSUES

7. The issues in this dispute are:
 - a. Whether ICBC acted improperly or unreasonably in assigning responsibility for the accident, and
 - b. If so, to what extent, if any, is Ms. Jung responsible for the accident?

BACKGROUND, EVIDENCE, AND ANALYSIS

8. In a civil proceeding such as this, Ms. Yung as the applicant must prove her claims on a balance of probabilities, meaning “more likely than not”. While I have read all of the parties’ evidence and submissions, I refer only to what I find necessary to explain my decision.
9. Under the ACR, to succeed in her claim against ICBC, Ms. Yung must first prove that ICBC acted improperly or unreasonably in assigning responsibility for the accident to her. Second, Ms. Yung must prove she was less responsible for the accident than ICBC assessed. Under section 10 of the ACR, both parts of this test must be proven.
10. I turn to the accident circumstances. It occurred at about 3:00 pm on August 30, 2022, on the 5000 block of Kwantlen Street in Richmond, BC. Ms. Yung was driving south on Kwantlen Street and was turning left onto an unnamed street or alley. I will refer to it as the alley. Kwantlen Street has a dedicated left turn lane for southbound traffic turning left onto the alley.
11. The alley forms a T-intersection with Kwantlen Street, and so vehicles exiting the alley must turn either left or right onto Kwantlen Street. There is both a dedicated right turn lane and a dedicated left turn lane, as well as a stop sign for vehicles exiting the alley. The third party was exiting the alley when they collided with Ms. Yung’s vehicle as it was entering the alley.
12. ICBC held Ms. Yung 100% responsible for the accident, stating in an October 20, 2022 CL722 (detailed responsibility letter) that Ms. Yung had failed to comply with section 165 of the *Motor Vehicle Act* (MVA), which governs turning at an intersection. ICBC referred to the accident scene photos, which it said showed Ms. Yung had cut across both the left and right turn lanes exiting the alley when making her left turn, and that Ms. Yung had not initiated her left turn from the marked section on Kwantlen Street for the left hand turn lane. The letter also stated that Ms. Yung had not been driving with due care and attention, as required by section 144 of the MVA. In short,

ICBC found that Ms. Yung had cut the corner of her left turn too sharply and she was solely responsible for the accident for failing to lawfully execute her turn.

13. Ms. Yung says that ICBC improperly held her 100% responsible for the accident. She says that ICBC sent her letters containing incorrect license plate, driver's license, and driver information. She also says ICBC relied on incorrect facts about the direction of the third party's vehicle, and the location of her vehicle damage. She says the third party should bear full responsibility for the accident.

Did ICBC act improperly or unreasonably in assigning responsibility for the accident?

14. As noted above, section 10(a) of the ACR says that to succeed in her claim, Ms. Yung must first prove that ICBC acted improperly or unreasonably in assigning her sole responsibility for the accident. Merely disagreeing with ICBC's decision does not mean ICBC acted improperly or unreasonably.
15. Both parties reported the accident to ICBC the day it happened. ICBC's file notes indicate that Ms. Yung reported she was turning left from Kwantlen Street onto the alley, and the third party was coming from the alley, with a stop sign, and hit Ms. Yung's left rear door with its left front bumper. The third party reported that they were making a right turn from the alley onto Kwantlen Street and were on the pedestrian line when Ms. Yung turned left, and the collision occurred.
16. The evidence shows that ICBC also considered accident scene photos, a video the third party took of the accident scene, and a diagram the third party provided, all showing the vehicles' positions at the time of the impact. I find that the photos and video show the third party's vehicle was past the stop sign for vehicles exiting the alley but still within the pedestrian crosswalk. It was positioned in front of the right turn lane, and the front wheels were angled to the right. Ms. Yung's vehicle was entirely in the northbound lane on Kwantlen Street, facing south. The photos show the front driver's side corner of the third party's vehicle impacted the driver's side doors on Ms. Yung's vehicle.

17. As noted, Ms. Yung says that ICBC included inaccurate driver's license, license plate, and driver information in its initial letter advising that she had been found liable for the accident. ICBC admits that a "formatting issue" resulted in some incorrect information being included in the letter. I infer that given the admittedly incorrect information ICBC provided, Ms. Yung questions the overall reliability of ICBC's liability decision. However, I am satisfied that the inclusion of the incorrect information was likely akin to a clerical error, and I accept ICBC's submission that it did not have any impact on its liability investigation. In any event, ICBC undisputedly completed a later secondary review of liability at Ms. Yung's request, and upheld its initial determination that Ms. Yung was 100% responsible. So, I find the inaccurate information in ICBC's initial letter to Ms. Yung does not demonstrate that ICBC improperly or unreasonably assigned responsibility to her.
18. Ms. Yung also argues that ICBC incorrectly found the third party was making a right turn at the time of the accident. She says the third party was in fact exiting straight out of the alley, even though vehicles undisputedly must turn either right or left. As noted above, the photographic and video evidence shows the third party's vehicle was in front of the right turn lane and its wheels were angled to the right. Based on that evidence, I find ICBC did not improperly or unreasonably accept the third party's report that they were turning right.
19. Finally, Ms. Yung says ICBC incorrectly stated in the CL722 that the third party's vehicle struck only her vehicle's left front door, when it in fact struck both the front and rear doors. However, I find the statement Ms. Yung refers to was a reproduction of what the third party had reported to ICBC. I find there is no indication that ICBC relied on the third party's report about the point of impact on Ms. Yung's vehicle, over the photographic and video evidence that clearly shows Ms. Yung's rear door was also impacted. So, I find it unproven that ICBC improperly or unreasonably relied on incorrect information about the damage to Ms. Yung's vehicle in determining she was fully liable for the accident.

20. While I acknowledge that Ms. Yung disagrees with how ICBC interpreted the evidence when conducting its investigation and assigning fault, I find she has not established that ICBC acted improperly or unreasonably. Therefore, I find Ms. Yung has not satisfied section 10(a) of the 2-part test in the ACR. I dismiss Ms. Yung's claim.
21. Given this conclusion, it is unnecessary to consider whether Ms. Yung should be held less responsible for the accident under part 2 of the test set out in section 10(b) of the ACR. That said, even if Ms. Yung had proven that ICBC acted improperly or unreasonably, I would have found she has not proven she was less than 100% responsible for the accident, based on the photographic evidence. That is, I find the photos show the third party was likely properly executing a right turn when Ms. Yung breached section 165 of the MVA by significantly cutting the corner of her left turn, causing the collision. So, I would have dismissed Ms. Yung's claim under part 2 of the test in any event.
22. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Ms. Yung was unsuccessful, I dismiss her claim for CRT fees and dispute-related expenses. ICBC was the successful party, and so I find Ms. Yung must reimburse it \$25 for its paid CRT fees. ICBC did not claim dispute-related expenses.

ORDERS

23. Within 21 days of the date of this decision, I order Ms. Yung to pay ICBC \$25 as reimbursement of CRT fees.
24. ICBC is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.
25. I dismiss Ms. Yung's claims.

26. 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.

Kristin Gardner, Tribunal Member