Civil Resolution Tribunal

Date Issued: September 23, 2025

File: AR-2024-000806

Type: Accident Claims

Category: Accident Responsibility

Civil Resolution Tribunal

Indexed as: *Nastalin v. ICBC,* 2025 BCCRT 1331

BETWEEN:

EMILIAN NASTALIN and TEODORA RALUCA BRINZEANU

APPLICANTS

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Christopher C. Rivers, Vice Chair

INTRODUCTION

1. This dispute is about accident responsibility.

2. On February 25, 2023, the applicant, Teodora Raluca Brinzeanu, was in a motor vehicle accident on Highway 1 in North Vancouver, British Columbia. The other applicant, Emilian Nastalin, owned the car Mrs. Brinzeanu was driving.

3. During snowy conditions, Mrs. Brinzeanu attempted to change lanes to avoid a collision with another driver's vehicle spinning out of control ahead of her. The cars collided. After investigating, ICBC issued its detailed responsibility assessment letter, in which it seemingly found Mr. Nastalin, the owner, was 50% responsible. SP, the other driver, is not a party in this dispute.

4. The applicants say the respondent insurer, Insurance Corporation of British Columbia (ICBC), incorrectly determined responsibility for the accident. The applicants say they should be held 0% responsible instead.

5. ICBC says it properly investigated and reasonably determined responsibility for the collision. It says I should dismiss the applicant's claims.

6. The applicants are self-represented. The respondent is represented by an employee.

7. For the reasons that follow, I allow the applicants' claim.

JURISDICTION AND PROCEDURE

8. The Civil Resolution Tribunal has jurisdiction over accident claims brought under *Civil Resolution Tribunal Act* (CRTA) section 133. CRTA section 133(1)(d) and *Accident Claims Regulation* (ACR) Part 2 give the CRT jurisdiction over accident responsibility determinations. These are the CRT's formal written reasons.

9. CRTA section 2 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.

10. CRTA section 39 says that the CRT has discretion to decide the hearing’s format, including by writing, telephone, videoconferencing, email, or a combination of these. The applicants say the other driver, SP, dishonestly reported the accident’s circumstances to ICBC, but they did not ask to cross-examine them. I find that I am properly able to assess and weigh the documentary evidence and submissions before me. While obviously important to the parties, the stakes in this dispute are relatively small. 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.

11. CRTA section 42 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 court.

ISSUES

12. 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, the applicant is responsible for the accident.

BACKGROUND, EVIDENCE AND ANALYSIS

13. In a civil claim such as this, the applicants must prove their claims on a balance of probabilities, meaning “more likely than not”. Under the ACR, to succeed in their claim against ICBC, they must first prove that ICBC acted improperly or unreasonably in assigning responsibility for the accident to them. Second, the applicants must prove they are less responsible for the accident than ICBC assessed.

14. Further to ACR section 10, the applicants must prove **both** parts of the test described above. This means that even if they can prove they are less responsible

for the accident than ICBC assessed, they will not be successful if they cannot prove ICBC acted improperly or unreasonably. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.

Accident

15. On February 25, 2023, Mrs. Brinzeanu was driving Mr. Nastalin's black Volkswagen. She was driving west along Highway 1 near Westview Drive, in North Vancouver. She was in the left of three lanes. It was snowing and road conditions were poor. Traffic was generally only using the left and center lane, as the right lane had accumulated too much snow.

16. In the moments before the collision, Mrs. Brinzeanu was immediately behind a white sedan. The white sedan was following a Ford Explorer truck, driven by SP.

17. SP told ICBC that a vehicle in front of them began to lose control. They said when they saw the vehicle in front of them begin to lose control, they tried to change lanes to the right, into the middle lane. SP said they lost control of their own vehicle and began to spin. They described moving across the center lane into the right lane, coming nearly to a stop, when they were struck by Mrs. Brinzeanu's Volkswagen. SP did not collide with any other cars.

18. Mrs. Brinzeanu provided her own perspective in multiple statements to ICBC. ICBC's record of her February 28 telephone statement is confusing, as it does not clearly identify the various vehicles involved in and surrounding the collision. Mrs. Brinzeanu's emailed May 17, 2023 statement provides far greater clarity and is broadly consistent with her February 28 statement.

19. Mrs. Brinzeanu says when SP began to lose control, the white sedan in between her and SP changed lanes to the right. It successfully passed SP without colliding, using the center and right lanes. Mrs. Brinzeanu says she also tried to go around SP's spinning truck to the right, following roughly the same path as the sedan. Mrs. Brinzeanu could not get around SP and they collided. Her airbags then deployed.

20. I have also listened to an audio recording from police who attended the accident scene and took a statement from Mrs. Brinzeanu. In it, she says she was driving slowly, at around 40 km/h. She says the Ford in front of her began to spin, so she tried to stop. She says her car "did stop" but that it started slipping and hit the Ford while it was horizontal and/or still spinning in front of her. She does not describe trying to go around the Ford to the right, talking only about her braking. While the focus in her discussion with the police officer is different than the focus in her statements to ICBC, the statements are not inconsistent. It is likely that she tried both to go around the Ford and, when that did not work, applied the brakes to try to prevent a collision.

21. Accident scene photographs show the parties' vehicles in the far right lane. Mrs. Brinzeanu's Volkswagen is perpendicular to the lane, and tire tracks show she slid horizontally for at least 15 meters. The Ford is facing forward in the lane.

22. Those photographs also show damage to the Volkswagen's front left bumper, headlight, and fender. The Ford's damage is mostly to its back right taillight and quarter-panel.

23. In its CL722, addressed to Mr. Nastalin, ICBC wrote he was 50% responsible for the accident. In the letter's header fields, it listed the owner as Emilian and the driver as Nastalin. This is despite the fact that he was not driving the car at the time. Further, in its submissions, ICBC continually referred to a singular "Applicant," leaving it somewhat ambiguous whether they meant Mr. Nastalin or Mrs. Brinzeanu. From context, I infer most, if not all, references to the applicant are to Mrs. Brinzeanu, as the driver.

24. Neither party raised this issue in submissions. There is no suggestion Mr. Nastalin was somehow the driver. As the parties have proceeded on the basis that ICBC determined Mrs. Brinzeanu was responsible for the collision, despite what is technically in the CL722, I have done so as well.

The De Paras Analysis

25. Since it was issued on February 2, 2024, the CRT has regularly cited the non-binding decision in *De Paras v. ICBC*, 2024 BCCRT 106, to explain the legal analysis required in accident responsibility cases. The CRT first reviews the properness of ICBC's investigation and decision-making process and the reasonableness of ICBC's responsibility determination before making its own assessment of responsibility.

26. Where the applicants have proved that that ICBC acted either improperly or unreasonably, and have also proved they are less responsible than assessed by ICBC, the CRT will order ICBC to change its responsibility assessment.

Was ICBC's decision reasonable?

27. In assessing the reasonableness of ICBC's responsibility determination, the CRT must review the CL722, alongside the evidence ICBC had at the time, and consider whether ICBC's decision was logically justified and supported by the available evidence and the applicable law. That does not mean the CRT must defer to ICBC's substantive assessment of the law or its application to given facts.

28. In the CL722, ICBC included copies of statements from both Mrs. Brinzeanu and SP and cited the *Motor Vehicle Act* (MVA). However, while it printed excerpts of *MVA* sections 144 (Careless driving prohibited), 151 (Driving on laned roadway), and 162 (Following too closely), it did not make any effort whatsoever to explain how they applied.

29. Specifically, after copying the drivers' statements from ICBC's internal records and pasting in the noted MVA excerpts, ICBC simply write that it determined that Mrs. Brinzeanu was 50% responsible for the crash.

30. As I have previously written in *Nygaard v. ICBC*, 2025 BCCRT 111, the CRT acknowledges that CL722 letters must be produced at a high volume and without expansive written reasons. However, they still must, at a minimum, explain how the

relevant law applies to the facts and how they determined their responsibility decision. It is not enough to cite the driver's statements and the law and presume that readers will understand ICBC's logic.

31. As was the case in *Nygaard*, ICBC gave no reasons for its decision whatsoever. It did not explain how the relevant law applied to the facts, as it understood them. Without at least some explanation of its rationale in the CL722, I find it has not reasonably determined responsibility. It should be obvious to ICBC that it needs to explain its decision and simply citing evidence and law without explaining how they apply in the present case does not do so.

32. So, I find ICBC acted unreasonably in assigning responsibility.

Has Mrs. Brinzeanu proved she is less than 50% responsible for the accident?

33. In order to determine the parties' relative responsibility for the accident, I must begin by setting out how the accident happened.

34. I have no difficulty concluding the roads were dangerous and difficult to drive. Photographs and video show snow falling and accumulated snow on the road and shoulders. The Ford Explorer was undisputedly spinning in circles immediately before the collision. Mrs. Brinzeanu said to the police she was driving at only 40 km/h, but that her car slipped when she tried to stop before the collision. It is obvious from the evidence that road conditions were hazardous.

35. In reviewing the photographs and the parties' statements, I am satisfied that Mrs. Brinzeanu attempted to avoid the collision by moving right to try to go around SP as SP spun out of control from the left lane towards the right lane. I find this was a reasonable action to take, given Mrs. Brinzeanu had seen the white sedan successfully avoid the collision in the same way just seconds earlier. I also find she likely applied the brakes immediately before the collision when it became apparent the vehicles were going to crash. Precisely how the cars collided or whether SP was

facing forward or was horizontal is immaterial to Mrs. Brinzeanu's decision to react and a determination of her negligence.

36. In its submissions, ICBC cites *Vo v. Mitchl*, 2012 BCSC 1417 for the idea that a driver must adjust their driving to meet the road conditions. In that case, and here, it was apparent to the drivers that the road conditions were poor since they had been driving in them.

37. ICBC also says that a following vehicle has an obligation to maintain a safe stopping distance to account for such emergencies that may arise, like a sudden stop or unanticipated maneuver by a vehicle ahead. In *Wallman v. John Doe*, 2014 BCSC 79, the Supreme Court wrote at paragraphs 410 and 411 that a driver must follow at a distance that reasonably allows for the speed, traffic, and road conditions, and they must be on the lookout for the unexpected.

38. However, here I find Mrs. Brinzeanu's driving allowed her sufficient time to make the decision to try to move around the Ford on the right. She chose to mimic the white sedan's actions by moving to the right to try to go around SP. I find this was consistent with the actions of a reasonable and prudent driver in the same circumstances.

39. While she was unsuccessful in doing so, I find it was a reasonable choice in the moment. The Ford, spinning in circles across multiple lanes of traffic, was moving in an unpredictable way.

40. I turn now to the specific sections ICBC cited in the CL722.

41. Contrary to MVA section 144 cited by ICBC, Mrs. Brinzeanu's actions do not suggest she was driving without due care or attention or at an excessive speed relative to the road or weather conditions. She was able to observe, decide, and take a reasonable course of action. While she ultimately collided with the Ford, I do not find it was through any negligence.

42. While ICBC cited MVA section 151, apparently to suggest she changed lanes in an unsafe fashion that impeded another vehicle, that is not consistent with the accident circumstances as I have set them out above.

43. Finally, while ICBC cited MVA section 162 that said she was following another vehicle “too closely,” the presence of the white sedan between her vehicle and the Ford makes this all but a practical impossibility. She had left enough room for another vehicle to fully operate and act to avoid a collision. She was not following the Ford too closely.

44. Having regard to the evidence, I find Mrs. Brinzeanu has proved she was not negligent. It follows that I find she was 0% responsible for the accident.

FEES AND EXPENSES

45. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As the applicants were successful, I find that they are entitled to reimbursement of their paid tribunal fees of $125

46. While ICBC initially claimed the $25 CRT dispute response fee, in submissions, it clarified its position to say it was not claiming any dispute-related fees or expenses. Since it was unsuccessful, I dismiss its claim in any event.

47. Neither party claimed any dispute-related expenses.

ORDER

48. Within 14 days of the date of this decision, I order ICBC to:

    a. Amend its internal responsibility assessment to reflect that Mrs. Brinzeanu is 0% responsible for the February 25, 2023 accident, and

    b. Pay the applicants a total of $125 in CRT fees.

49. The applicants are also entitled to post-judgment interest under the *Court Order Interest Act*.

50. This is a validated decision and order. 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 in which it was filed.

Christopher C. Rivers, Vice Chair