



Civil Resolution Tribunal

Date Issued: March 1, 2018

File: SC-2017-003419

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Laubscher v. Mansoor et al*, 2018 BCCRT 59

BETWEEN:

Rudolf Laubscher

APPLICANT

AND:

Ofrie Mansoor and Maureen Mansoor

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about a used 2001 Dodge Caravan Sport Minivan (van) the applicant Rudolf Laubscher bought from the respondents Ofrie Mansoor and Maureen Mansoor, for \$2,000. Mr. Laubscher says the respondents misrepresented the van when advertising it as in “excellent” condition and failing to disclose it had “rebuilt” status. Mr. Laubscher says that when he got the van home,

he learned it required a number of repairs that were estimated to cost over \$4,000. Mr. Laubscher wants a refund of the \$2,000 he spent.

2. The respondents deny they misrepresented the van and say they described the van based on their knowledge, noting in their ad it had not been driven much in the past couple of years. While they did not expressly disclose its rebuilt status, they note that was expressly on the insurance documents exchanged at the time of sale. The respondents say the van was sold “as is” and that Mr. Laubscher could have had it inspected prior to purchase but chose not to do so.
3. The parties are self-represented.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal 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.
5. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing. In this case, while I acknowledge the parties each had some challenges providing their evidence in electronic form, I am satisfied that I have the necessary documentation and submissions from each of them in order to make a decision, without an oral hearing. This conclusion is consistent with the court’s observations of the tribunal’s processes in the recent decision in *Yas v. Pope*, 2018 BCSC 282.
6. The tribunal 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 tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

7. Under tribunal rule 121, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

8. The issues in this dispute are a) did the respondents misrepresent the van when they sold it to the applicant, and b) if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. The Mansoors' Craigslist ad noted the van: has 165,000 km on it, has one scrape over the left wheel axis, 3rd row seating was missing, back sliding door on driver's side does not unlock, and brakes and tires done in the last couple of years "but vehicle has hardly been driven since then".
11. It is undisputed that Mr. Laubscher did not obtain a mechanical inspection prior to purchase, and instead relied upon the respondents' description in their Craigslist ad that the van was in "excellent condition". Mr. Laubscher says he wanted to test drive the van on rough ground. However, he ultimately he chose to proceed with the purchase without a mechanical inspection, despite his concerns during the test drive, which appeared to be primarily about the van's suspension system. Mr. Laubscher's primary concerns in terms of required repairs also appear to be about the van's suspension, though there are various other items included in his list provided in evidence, such as wiper blades, leaking gaskets, filters, wheel alignment, and spark plugs.

12. That the Mansoors did not expressly point out to Mr. Laubscher that the van had “rebuilt” status does not mean they misrepresented the van’s condition. It may be that it is common for Craigslist ads to note rebuilt status, as Mr. Laubscher suggests, but that also does not necessarily mean that the Mansoors misrepresented the van in their ad because they did not so do. Nothing in their ad suggests the van did not have rebuilt status. In other words, Mr. Laubscher has not proven that a van could not be in excellent condition and also have rebuilt status. That the van may have required various repairs after Mr. Laubscher took it home is more about the “excellent” condition description, rather than its having rebuilt status.
13. Ultimately, while I accept Mr. Laubscher did not notice until “too late” that the insurance documents completed at the time of sale noted the “rebuilt” status, the fact remains that the rebuilt status was there to be seen.
14. Further, while Mr. Laubscher argues that the “as is” notation on the receipt Ms. Mansoor provided at the time of sale was given after he provided the cash, the law is still “buyer beware”, as discussed below. Further, Mr. Laubscher did not challenge the “as is” notation at the time, and only later questioned it when he determined the van needed various repairs.
15. Buyer beware means that a buyer must assess the condition of the item before buying it, which in the case of a used van often includes a pre-purchase inspection by a mechanic, and there is no implied or legislated warranty. A buyer’s recourse is only if there is misrepresentation, and for the reasons that follow I find Mr. Laubscher has not established misrepresentation based on the evidence before me. The most significant factor here is that the van was sold “as is”. Sales like the respondents’ sale of the van are “buyer beware”. This fact is not just because the Mansoors noted “as is” on the receipt. As noted in *Grundy v. Ji*, 2018 BCCRT 38, the provisions in section 18 of the *Sale of Goods Act* about implied warranty do not apply to private sales (see also *Clayton v. North Shore Driving School et al.*, 2017 BCPC 198).

16. I acknowledge that the total value of the estimated repairs, over \$4,000, is significant bearing in mind the van sold for \$2,000. However, I find the various repair issues are to some extent referenced in the Mansoors' ad and are otherwise relatively minor on their own. I place significant weight on the fact that the Mansoors expressly told Mr. Laubscher, as noted in their ad, that they had not driven the van much in the prior 2 years.
17. In summary, on balance I find that Mr. Laubscher has not proven on a balance of probabilities that the Mansoors misrepresented the van's condition. Therefore, the Mansoors are not responsible for the van repairs that Mr. Laubscher says are now necessary.
18. Given my conclusions above, I dismiss the applicant's claim. There were no tribunal fees paid and no dispute-related expenses claimed and therefore I do not need to address those issues.

ORDER

19. I order that the applicant's dispute is dismissed.

Shelley Lopez, Vice Chair