



# Civil Resolution Tribunal

Date Issued: March 13, 2018

File: SC-2017-003270

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Emmons v. Knowles Exhaust Specialties LTD*, 2018 BCCRT 75

**B E T W E E N :**

Paul Emmons

**APPLICANT**

**A N D :**

Knowles Exhaust Specialties LTD.

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Julie K. Gibson

### **INTRODUCTION**

1. In November 2016, the applicant Paul Emmons paid the respondent Knowles Exhaust Specialties LTD. (Knowles) for a brake job on his truck. In March 2017 the applicant returned for more repair work. He says the work was not done properly on either visit.

2. The respondent says the repairs were completed as described in their invoices. It maintains that it is not responsible for further work that the truck may need.
3. The applicant wants the respondent to pay a \$1,690.69 refund, and \$1,400 in lost wages.
4. Both parties are self-represented.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. The applicant requested an oral hearing. 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.
7. 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.
8. 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**

9. The issues are:
  - a. Did the respondent fail to adequately complete repairs to the applicant's truck?
  - b. If so, what is the appropriate remedy?

## **EVIDENCE AND ANALYSIS**

10. This is a civil claim where the applicant bears the burden of proof on a balance of probabilities. I have only addressed the evidence and arguments to the extent needed to explain my decision.
11. In November 2016, the applicant brought his 1995 Ford Truck to the respondent for brake repairs. He asked for a check of the rear brakes. The truck's odometer read 124,460 km. The respondent installed new rear brake shoes, wheel cylinders and a new left emergency brake cable. The respondent did not replace brake drums at this visit. The applicant paid \$338.04 for this work.
12. There is a preliminary document issue about the November 2016 Knowles invoice. The applicant says that Knowles submitted an original invoice to him in November 2016 that did not include a "legal warranty", and that they later created a document that was an updated invoice containing the legal warranty language.
13. Two November 2016 invoices were filed in evidence. They are identical except that the second one has a warranty notation on it. The parties agree that this notation did not appear on the original invoice. The respondent says it is an artifact of reprinting the document. I accept this explanation. I find that no warranty language appeared on the November 2016 invoice originally.
14. The applicant next brought his truck back to the respondent in March 2017, at which point he had driven an additional 6,775 kilometres. The truck was being used daily for work including snow plowing and sanding.

15. On March 24, 2017, the respondent did more work on the truck. The invoice lists: front brake calipers, brake fluid and a brake hardware kit, and labour for installation of a supplied master cylinder, installation of front brake calipers and bleed brake system. Total parts and labour, plus tax, for these services was \$403.20, which the applicant paid in cash. The brake drums were not repaired.
16. The brake drums are an issue because the applicant says the inadequate repair from November 2016 caused the brake drums to wear more quickly than they should have. There is no evidence that the applicant asked for the brake drums to be repaired in November 2016 or March 2017, nor did the respondent recommend their repair. There is also no mechanic's opinion provided that says the brake drums wore more quickly due to the repairs completed by the respondent.
17. The March 24, 2017 invoice says that the applicant requested installation of a supplied master cylinder, and a check of the e-brake. He did not direct a replacement of all brake components.
18. The respondent submitted a screen shot showing that it recommended that the truck needed front premium brake pads and rotors on March 24, 2017. The applicant declined premium parts at that time.
19. Given the above evidence, I find that the applicant asked the respondent for limited maintenance for his truck and declined additional work when it was recommended.
20. At this service appointment, the rear brake shoes were under warranty. The right rear lining had come apart. The respondent therefore installed new rear brake shoes, without additional charge to the applicant. This is so even though the applicant had been using the truck for heavy use that may well be a commercial purpose outside the terms of the parts warranty.
21. On March 24, 2017, once the work was complete, the applicant did a brake check and gave an employee of Knowles a thumbs up. I find that this indicated that there were no problems with brake function at the time.

22. On March 29, 2018 the applicant obtained a brake evaluation at Brock Auto Centre (Brock Auto) which recommended the left and right rear cables be replaced. Brock Auto noted the left rear brake cable was “sticky” and the brake drums were in poor condition. Brock Auto recommended the brake drums be repaired when the cables were replaced. Brock Auto’s evaluation does not specify that the shoes need replacement, but their estimate includes replacing them.
23. Brock Auto’s technician also noted that the proportioning valve might be stuck, and that if the brake pedal continued to be soft, replacement was recommended. The applicant did not explain why he attended at Brock Auto, though it may have been that he noticed the soft brake pedal, which was not present when he left the repairs by the respondent.
24. The applicant had a brake system flush at Brock Auto on that day. The brake light on his truck was noted to have been disconnected.
25. On April 4, 2017, the applicant obtained a quote from Brock Auto for \$1,383.37 for 4.5 hours of labour to replace rear shoes, wheel cylinders, drums, rear e-brake cables (left and right), intermediate brake cable, bleed brakes and road test. He did not have that work completed.
26. An April 12, 2017 invoice shows that the applicant purchased further repairs on his truck for \$768.22 including of 5 ½ hours of labour and replacement of “1 spindle bearing, 2 axle dust seals, 2 hub seals, 2 axle u-joints, 1 “pads” and 2 rotors. The invoice does not identify who provided the repairs but the parties agree the work was done by Kelly Depot.
27. The applicant says the respondent’s brake repair was not done correctly. Specifically, he says the emergency brake cables were faulty and the rear brakes were over adjusted, causing them to overheat. He says the work done by the respondent caused a problem with a brake shoe that broke and became loose in the drum, causing excessive wear. He says the back brakes did not work properly,

causing the front brakes to be overused, and meaning all parts had to be replaced. He says he tried to have the repair job fixed by the respondent, but they did not.

28. The evidence does not support the applicant's account. He declined to have the front brakes repaired using the parts recommended by the respondent. Rear brake repairs were done by the respondent in November 2016, while front brakes were repaired in March 2017, except for the rear brake shoe warranty work. He did not ask the respondent to replace the brake drums at any time.
29. The applicant used the truck for sanding and snowplowing, a heavy use that can cause significant wear and tear.
30. Although the left rear brake cable was recommended to be replaced in by Brock Auto in late March 2017, it was installed by the respondent in November 2016. After about 7,000 km of heavy use, I find it was part of a recommended replacement along with the brake drums and other components. Similarly, Brock Auto's recommendation for further repairs to the rear brakes, which the respondent worked on primarily in November 2016, does not establish that the repairs by the respondent were inadequate.
31. The applicant argues that the respondent should have done more work on his truck, to avoid his brakes needing the additional maintenance outlined in the estimate from Brock Auto. I disagree. I have found that the applicant had been instructing the respondent to repair his truck in a limited way to keep it running. The fact that Brock Auto recommended a more complete replacement of brake parts does not mean that the respondent has to refund the applicant for work it completed earlier.
32. The applicant offered no evidence, aside from his own assertion, that the repairs performed by the respondent somehow caused his other repair issues. Having himself limited the scope of the brake repair, he cannot rely on those limitations to establish that more work would have preserved other parts of his brake setup.

33. I find that the repairs performed by the respondent were as described in their contemporaneous invoices, and which I find are the best evidence as to what work was requested and done.
34. There is no mechanic's report offering an opinion of any deficiency in the work completed by the respondent. .
35. The applicant has not satisfied the burden to establish any problems with his truck's brakes were caused by the respondent's work.
36. Given that the applicant has failed to establish the respondent made improper repairs to his truck, I need not address the claims for damages.

## **ORDERS**

37. I order the applicant's dispute dismissed.
38. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
39. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Julie K. Gibson, Tribunal Member