



Civil Resolution Tribunal

Date Issued: March 15, 2018

File: SC-2017-003179

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Farasati v. Khalili*, 2018 BCCRT 81

B E T W E E N :

Ali R. Farasati

APPLICANT

A N D :

Abbas Khalili

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrew D. Gay, Q.C.

INTRODUCTION

1. The applicant took his vehicle to the respondent's auto repair shop to fix a battery problem. He alleges that the respondent's staff, while working on the car, caused the car stereo system to stop working and then refused to fix the problem. The applicant says he had to take his car to another repair shop to fix the stereo

system at a cost of \$671.37. The respondent denies the allegations. Both parties are self-represented.

JURISDICTION AND PROCEDURE

2. 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.
3. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. The parties made written submissions and I will decide the case on the basis of those submissions. Neither party requested an oral hearing. While the parties make various accusations and counter-accusations against one another, most of these are irrelevant to the issues in the case. The tribunal's mandate includes proportionality and a speedy resolution of disputes, and I find that an oral hearing is not necessary in the interests of justice. I also note the recent decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and that oral hearings are not necessarily required where credibility is in issue.
4. 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.
5. Under tribunal rule 121, in resolving this dispute the tribunal may make one or more of the following orders:

- a. order a party to do or stop doing something;
- b. order a party to pay money; and
- c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

- 6. The issues in this dispute are:
 - a. Did the respondent or his employee cause damage to the applicant's vehicle, for which the respondent is responsible to reimburse the applicant?
 - b. If so, what was the cost of fixing that damage?

EVIDENCE AND ANALYSIS

- 7. 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.

Background

- 8. The applicant lives near the respondent's auto repair shop. In April of 2017, the applicant brought his car to the respondent's shop to fix a battery-related problem. The parties offer different accounts of what happened. The applicant says that the respondent's employees told him that the problem was not with the car's battery, but rather with the electrical box. He further alleges that when they attempted to fix the problem with the electrical box the respondent's staff ended up wrongly cutting certain wires thereby causing the car stereo system to stop working. He further alleges that there was significant delay in getting his car back.
- 9. The respondent denies this. According to the respondent, shortly before the dispute arose his employees helped the applicant by giving his car a free "boost". The respondent says that when the applicant brought his car to the shop the

following day, he told the applicant that he would not do further work for free. His position is that the applicant did not hire him to do any work and paid him no money.

Evidence of the How the Stereo System was Damaged

10. The applicant submitted a photograph showing two boxes with the name “Boston” on them. The boxes appear to be located within a car. These boxes appear to have wires coming out of them, and it appears that the wires are cut. There is no evidence before me as to what these boxes are, or what function they play in the car. The photograph offers no evidence of who may have cut the wires. Nor does the photograph offer evidence of whether the cutting of these wires is what caused the stereo to stop working.
11. The applicant produced two invoices which he claims represent the cost of fixing the problems allegedly caused by the respondent. The first is an invoice from Performance Car Stereo for the re-wiring of a sound system. This invoice does not identify the problem which led to the re-wiring. It also does not identify which car was re-wired. The second invoice is a Costco receipt which appears to be for some kind of battery. There is no evidence before me of what kind of battery was purchased, why it was needed or what was done with it following its purchase.
12. The applicant also produced an Affidavit from an individual named Mohammad Mohebtash. His relationship to the applicant, if any, is not indicated. Mr. Mohebtash states that he accompanied the applicant to the respondent’s shop on April 15, 2017, and observed an employee at the shop state that he did not have the wires needed to fix the applicant’s car, but would have them in a week. Mr. Mohebtash also states that he saw a package containing stereo speakers, an amplifier, an electrical box and other accessories belonging to the applicant’s car laid on top of a large barrel.
13. However, Mr. Mohebtash’s Affidavit does not assist in resolving whether the respondent or his staff wrongfully cut the wires in the applicant’s car or in resolving

the reason why the car stereo had stopped working. Mr. Mohebtash does not describe seeing any wrongful conduct or hearing any comments about wire cutting.

14. The applicant bears the burden of proof, as noted above. I find I have insufficient evidence before me to support a conclusion that the respondent is responsible for the car stereo not working. Further, if the applicant needed a new battery, there is no evidence before me indicating why the respondent should be responsible to pay for it. For example, there is no evidence before me that the respondent or his staff harmed a battery that was previously working.
15. I conclude that the applicant has not met the burden of proving that the respondent should be responsible for the repair costs incurred by the applicant.

Additional Relief Sought by the Applicant

16. The applicant says that he wants government to prevent the respondent and his staff from parking cars in public parking spots which have a 30 minute maximum. The applicant further says that he wants government to take action against the respondent's licence in the name of public safety. The tribunal has no jurisdiction to make an order in relation to either of these matters.

ORDERS

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

Andrew D. Gay, Q.C., Tribunal Member