



Civil Resolution Tribunal

Date Issued: May 4, 2018

File: SC-2017-004922

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cattoni v. 1048443 B.C. Ltd.*, 2018 BCCRT 170

BETWEEN:

Wayne Cattoni

APPLICANT

AND:

1048443 B.C. Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Adam Shee

INTRODUCTION

1. The applicant, Wayne Cattoni, hired the Respondent, 1048443 B.C. Ltd. doing business as Speed Clean Coin Laundry (Speed Clean), to clean a Mustang brand “Cruiser Suit” (suit). Mr. Cattoni says that Speed Clean damaged the suit in the process of cleaning it and claims \$556.49 as its replacement cost.
2. Speed Clean states that it washed the suit in accordance with the washing instructions and that it always does this unless specifically instructed otherwise. Speed Clean denies responsibility for the damage to the suit.
3. Both Mr. Cattoni and Speed Clean 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 that might require an oral hearing. Neither party requested an oral hearing.
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 126, 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 is whether Speed Clean is responsible for the damage to the suit and to what extent, if any, it is liable to pay the claimed replacement cost.

BACKGROUND AND EVIDENCE

9. There was very little evidence submitted by the parties. Mr. Cattoni submitted only a photograph of the suit and a quote for its replacement cost. Speed Clean submitted a copy of e-mail correspondence, dated July 24, 2017, between Rachel Lim, the daughter of a principal of Speed Clean, and Melodee Dobbins, a customer service representative for Mustang Survival (Mustang), the suit's manufacturer.
10. The parties agree that Mr. Cattoni dropped off the suit to Speed Clean on July 10, 2017 and that when he picked it up the following day, there was damage to the suit.
11. After Mr. Cattoni advised it of the damage to the suit, Speed Clean made some efforts to fix or clean the damaged portions and contacted Ms. Dobbins for suggestions on how to repair the damage. Speed Clean was unable to repair or clean the damage to the suit.
12. In their e-mail correspondence, Ms. Lim advised Ms. Dobbins that Speed Clean had washed the suit in a washing machine using cold water, in accordance with the only washing instruction on the suit that it not be dry cleaned. Mr. Cattoni is not alleging that the suit was dry cleaned.

13. In her reply to Ms. Lim, Ms. Dobbins wrote:

what occurred when this product was washed is called delamination of material. Delamination is the separation of the inner layer membrane from the outer fabric layer... This can also happen overtime (sic) as it is a breakdown of material. According to our lot number, the product was manufactured in 1993, which is quite old. Our products don't have an expiration date per say, **but we do recommend replacing them once they have reached ten years of age from the date of manufacture. This is due to the fact that the materials can start to break down over time.**

[reproduced as written]

14. There is no suggestion in the e-mail correspondence between Ms. Lim and Ms. Dobbins that Speed Clean's washing method was the cause of the suit's delamination, even to the extent that delamination occurred during the washing of the suit.

REASONS AND ANALYSIS

15. Mr. Cattoni's having left the suit with Speed Clean created a legal relationship called a "bailment." A bailment is created where the custody of one person's or entity's property is temporarily transferred to another person or entity, who is known as a "bailee." The bailee in this case was Speed Clean.
16. It is not disputed that the suit was left with Speed Clean for the specific purpose of it being cleaned for a fee. For that reason, the bailment in this case is what is commonly referred to as a "for reward" bailment.
17. In a civil claim such as this, the applicant generally bears the burden of proving negligence on a balance of probabilities. However, in a "for reward" bailment situation, the burden of proof shifts and the onus generally falls upon the bailee to

disprove negligence. This tribunal and the British Columbia provincial court have recognized this shift in the burden of proof: *Severinson v. Holloway*, 2018 BCCRT 42; *Cahoon v. Isfeld Ford*, 2009 BCPC 334. The reason for this shift in the burden of proof is that only the bailee can know what actually happened when property was in his or her custody, putting the applicant at an unfair disadvantage when it comes to discovering what happened during the time of the bailment.

18. In this case, Ms. Dobbins advised Ms. Lim that the suit was manufactured in 1993, making it approximately 24 years old at the time Speed Clean was tasked with cleaning it by Mr. Cattoni. This is 14 years past the date that Mustang recommends the replacement of such suits.
19. Ms. Dobbins also confirmed that the reason Mustang recommends the replacement of such suits after 10 years is that the material can break down over time. Ms. Dobbins did not indicate that this break down in the material was likely to occur only where the suit is worn extensively, as suggested by Mr. Cattoni.
20. Finally, although Ms. Dobbins did indicate that the delamination occurred during the washing of the suit, she did not indicate that the delamination was caused by Speed Clean's method of washing the suit and noted that delamination is a process that can also happen over time as it is "a breakdown of material."
21. I find that the e-mail correspondence between Ms. Dobbins and Ms. Lim is the best evidence of the likely cause of the delamination and resulting damage to the suit.
22. Although the suit's delamination occurred when it was washed by Speed Clean, that in itself is not enough to make a finding that Speed Clean was negligent. Based on the e-mail correspondence from Ms. Dobbins, I find that it is more likely than not that delamination had started before Speed Clean washed the suit and that washing it merely accelerated the process but was not the cause of the delamination. I dismiss Mr. Cattoni's claim for damages in respect of damage to the suit.

23. In accordance with section 49 of the Act and the tribunal's rules, I also find the applicant is not entitled to reimbursement of his tribunal fees because he was unsuccessful in this dispute.

ORDERS

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

Adam Shee, Tribunal Member