



Civil Resolution Tribunal

Date Issued: June 11, 2018

File: SC-2017-003868

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Szigeti et al. v. Insurance Corporation of British Columbia*,
2018 BCCRT 244

B E T W E E N :

Thomas Szigeti and Gaviella Szigeti

APPLICANTS

A N D :

Insurance Corporation of British Columbia

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about the premium the respondent insurer, Insurance Corporation of British Columbia (ICBC), charged for the 2017 Tesla Model X P90D vehicle owned by Gaviella Szigeti, the wife of the applicant Thomas Szigeti.

2. Mr. Szigeti's application and the original Dispute Notice named him as the only applicant. While the parties during the facilitation and later submission processes indicated Ms. Szigeti should be an applicant, there was never a formal application for an Amended Dispute Notice. However, as Ms. Szigeti's role as a co-applicant is agreed to by all parties as well as Ms. Szigeti, I have added her as a co-applicant in the style of cause above.
3. On March 31, 2017 the applicants paid ICBC a total of \$3,940 for the Tesla insurance. On May 10, 2017, ICBC sent Ms. Szigeti an invoice for \$906 indicating it had undercharged the premium for the Tesla, due to a "Fee Calculation Error". The applicants say ICBC is responsible for any errors it made and they should not have to pay the invoiced premium amount.
4. ICBC says the initial premium was, as noted on the issued insurance Certificate, a temporary charge for a generic vehicle and that the Certificate noted a bill could be sent. ICBC says it was entitled to treat the premium difference of \$906 for the specific Tesla vehicle as a debt. Mr. Szigeti represents the applicants. ICBC is represented by Chris Beneteau, an employee and lawyer in its legal department.

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. 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. Neither party requested 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 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

9. The issue in this dispute is whether ICBC was entitled to charge the applicants an additional \$906, plus interest for late payment, for the premium difference between a generic new car and their specific Tesla vehicle.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicants bear 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.
11. On March 21, 2017, the applicant and his wife went to an insurance broker and sought insurance for the Tesla. On March 30, 2017, the broker advised the applicant that the insurance premium for their Tesla vehicle would be \$2,600 for 'own damage', rate class 021. As set out below, that is what ICBC charged the applicant for 'own damage' coverage.
12. On March 31, 2017, ICBC issued an Owner's Certificate of Insurance and Vehicle License to Ms. Szigeti, the registered owner of the Tesla. The insurance was for rate class 021 and immediately below the signature line it stated "Temporary Rate Group used. You may receive a bill or refund". Under this policy, the applicants obtained 'basic' and 'third party liability' coverage for \$1,340. Under a separate

'Special Risk Own Damage Policy" the applicant paid \$2,600. The total of these two insurance policies is \$3,940.

13. On May 10, 2017, ICBC issued Ms. Szigeti an "Insurance Underpayment Invoice" for \$906, noting that a "fee/premium underpayment" occurred on her policy, due to a "Fee Calculation Error". The invoice noted that interest at 1.5% per month, compounded monthly (19.56% per year) would be charged if the invoice was not paid within 30 days. This invoice related to the 'basic' insurance, that every motorist in British Columbia must carry by law.
14. By August 2, 2017, the interest on ICBC's underpayment invoice brought the total outstanding to \$919.59, which Mr. Szigeti paid on that date.
15. The crux of this dispute is that applicants say that the 'temporary rate group' clause was "fine print" that should have been drawn to his wife's attention by requiring her to initial that term. The applicants also say that ICBC should not have called the alleged underpayment an "Error", and if it was an error, it was ICBC's error and their responsibility. In both respects, I disagree.
16. First, as noted, the "you may receive a bill" clause is not hidden or buried, as suggested by the applicants. The Certificate is a 2-page document that the vehicle's owner must sign, and the clause appeared just below the applicant's wife's signature on the second page headed 'Coverages, Fees and Premiums". Given this 'you may receive a bill' clause, there was no finalized contract between the parties for the initial invoice that did not include the \$906 at issue, as submitted by the applicants.
17. An insured's initials on an insurance policy are generally used so that the insured is precluded from later saying they were not aware of the term, in the event the insured is found in breach of the contract such as driving for business when the car is only insured for pleasure use. That is not the scenario here. The absence of Ms. Szigeti's initials on the 'you may receive a bill' clause is not determinative. Neither is the fact that the \$906 was not referenced at the outset.

18. In a late August 2017 email exchange with Mr. Szigeti, ICBC advised that the applicants' broker had provided generic 'new model' information about the vehicle, and it was on that basis that ICBC issued the 'temporary rate group' Certificate for the Tesla. I note the broker is not a party to this dispute. Contrary to Mr. Szigeti's apparent suggestion in his underlying emails with ICBC, while a broker may be affiliated with ICBC and part of ICBC's "network" of brokers, ICBC and the broker are not the same entity. The broker is an independent contractor.
19. For the purposes of this dispute, the material point is that the applicants initially paid the incorrect amount of insurance for their specific Tesla, and that the applicable legislation required that the correct premium amount be paid.
20. In particular, ICBC's rates for basic insurance are contained in the Basic Insurance Tariff and are set by the BC Utilities Commission, not ICBC. ICBC is required to charge premiums set out in the Basic Insurance Tariff, as per section 44 of the *Insurance Corporation Act*. In other words, ICBC is required by law to charge the additional \$906 for the particular make and model at issue, the Tesla. Under section 15.7(2) of the *Insurance Vehicle Regulation*, ICBC is authorized to recover unpaid premium amounts as a debt, which ICBC did when it sent the applicant's wife the May 10, 2017 invoice.
21. ICBC was also authorized to charge interest on the unpaid premium, which amounted to \$13.59, under section 15.71 of the *Insurance Vehicle Regulation*.
22. Next, I accept that the reference to the initial Certificate's premium total as being a "Fee Calculation Error" was not an ideal description in the circumstances. However, I ultimately agree with ICBC that the invoice for \$906 was not to correct an earlier misrepresentation. Rather, it was an invoice to correct the insurance premium for the specific make and model, the Tesla, rather than a generic model. Again, the original Certificate expressly stated that a bill could be issued. I have no evidence before me as to why the broker requested insurance for a generic new model when it knew the applicant's vehicle was a Tesla Model X. Nonetheless, the premium for the applicants' specific Tesla vehicle was the amount ICBC ultimately

charged, including the \$906, which by law ICBC was entitled to treat as a debt until it was paid.

23. Even if ICBC had made an error in its invoicing to the applicants, it was entitled by law to correct the error and collect the correct premium for the Tesla, as described above. While I accept that the applicants were caught by surprise when they received the \$906 invoice, they do not particularly challenge that the correct premium for their Tesla was in fact inclusive of the \$906 at issue. I accept that the applicants ultimately paid the correct premium for their Tesla.
24. In summary, I find ICBC has not breached its obligations under its insurance contract with the applicants. ICBC properly charged the applicants the additional \$919.56, inclusive of \$13.59 in interest. As such, I do not need to address the applicant's claims for damages.
25. I dismiss the applicants' dispute, including their claim for reimbursement of tribunal fees given they were unsuccessful.

ORDER

26. I order that the applicants' dispute is dismissed.

Shelley Lopez, Vice Chair