



Civil Resolution Tribunal

Date Issued: August 23, 2018

File: SC-2018-001022

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Laflamme v. Roadrunners Dial A Tire Ltd.*, 2018 BCCRT 474

B E T W E E N :

Sierra Laflamme

APPLICANT

A N D :

Roadrunners Dial A Tire Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Darrell Le Houillier

INTRODUCTION

1. This claim relates to damage done to the applicant Sierra Laflamme's vehicle. He wants the respondent, Roadrunners Dial A Tire Ltd., to reimburse him \$550 that he paid to repair his vehicle, plus the \$125 he paid to bring his claim to the Civil Resolution Tribunal (tribunal). The respondent says it should not be held liable.
2. The applicant is self-represented. The respondent is represented by an employee or officer.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the 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.
4. 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 has requested an oral hearing.
5. 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.

6. 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; and/or order any other terms or conditions the tribunal considers appropriate.

ISSUES

7. The issue in this dispute is whether the applicant is entitled to reimbursement of \$550 he paid to repair his vehicle.

EVIDENCE AND ANALYSIS

8. In October 2017, the applicant brought his vehicle to the respondent's auto shop to have winter tires installed. In December 2017, he got a flat tire, which he tried to replace. He had a difficult time removing a lug nut holding the tire to its wheel stud and applied considerable force. The lug nut broke. The applicant inspected the lug nut and concluded it had been cross-threaded. This means the threading on the nut was not properly aligned when it was tightened, ruining the lug nut.
9. The applicant noticed another lug nut was sitting at an improper angle. He concluded this lug nut was cross-threaded as well. The applicant took a picture of this lug nut and submitted it to the tribunal but did not remove the second lug nut.
10. The applicant called the respondent and described the problem. The respondent's shop was very busy on that day and the applicant's concern could not immediately be addressed. The respondent did not employ a mechanic who could repair the applicant's vehicle but the respondent said it could refer the job to a local mechanic.
11. The applicant then brought his vehicle to another auto shop. A friend of his worked in that shop. The assistant service manager of that shop, Mr. Wong, confirmed in emails to the applicant that two lug nuts were cross-threaded. The shop repaired the damage and, including taxes, the applicant paid \$524.42, as set out in a December 9, 2017 invoice the applicant provided as evidence. The invoice

indicated there were two cross-threaded lug nuts, one of which was broken, and a nail puncture affecting that tire.

12. In submissions, the applicant explains how cross-threading might happen. The respondent stated that the proper procedure was followed and it was not possible to prove beyond a reasonable doubt that the lug nuts were cross-threaded as described by the applicant.
13. The respondent argues the applicant may have damaged the lug nut in forcing it off when trying to change his flat tire. The respondent states that Mr. Wong's emails do not seem to be "arms length" communications but reflect the respondent's friendship with an employee of that auto shop.
14. The applicant's claim is for negligence because he argues the respondent, through its employee, did not take the care it should have it installing his winter tires. Contrary to the respondent's submission, an applicant must prove a negligence claim on a balance of probabilities, not beyond "a reasonable doubt".
15. There are four elements to a negligence claim: the respondent must owe a duty of care, the respondent must have failed to meet the minimum standard of care, the applicant must have suffered a loss, and the loss must result from the respondent's failure to meet its minimum standard of care.
16. I find the respondent owed the applicant a duty of care. The applicant was paying the respondent to have one of its employees use professional skill to attach, using lug nuts, a winter tire to his vehicle.
17. I find that the respondent failed to meet its minimum standard of care because its employee cross-threaded two lug nuts on the applicant's vehicle. While the respondent did not know if this was the case, it was confirmed by a different auto shop. Mr. Wong's email and the invoice both establish this fact and I find that letter persuasive. While the worker was friends with someone who worked at the shop, Mr. Wong's email does not seem inappropriately friendly. There is no suggestion that the applicant's tire was removed between October 2017 and December 2017,

when the cross-threading was noticed. The best explanation for why the lug nuts were cross-threaded is that they were cross-threaded when the winter tire was installed.

18. The respondent did not dispute in its submissions that using an inappropriate method of tightening lug nuts could result in cross-threading. I consider that the respondent's employee knew or should have known that cross-threading could foreseeably damage the applicant's vehicle.
19. I find that the applicant suffered a loss of \$524.42 as a result of the cross-threaded lug nuts. While the applicant claimed \$550 in his submissions, there is no explanation for me about the difference between that amount and the invoiced \$524.42. I find \$524.42 to be appropriate as that is the amount invoiced to repair the applicant's vehicle. While the applicant broke one of the cross-threaded lug nuts, this was the result of the cross-threading and, in any case, even the unbroken lug nut needed to be replaced. I conclude that the lug nut broken by the applicant would have been ruined in any case because it was cross-threaded by the respondent's employee.
20. I find that the applicant's loss resulted from the respondent's failure to meet its minimum standard of care. The respondent argued that the applicant did not provide sufficient photographic evidence and did not give them enough opportunity to inspect and remedy any damage. I do not find those arguments persuasive. The respondent was not obligated to return the vehicle to the respondent's shop for repairs or to wait until they could get to him for repairs to be done. He was within his rights to have the repairs done elsewhere.
21. Under section 49 of the Act and the tribunal's rules, an unsuccessful party generally reimburses the successful party's tribunal fees. I see no reason not to follow that general rule. I order the respondent to reimburse the applicant for his tribunal fees totalling \$125.00. The applicant has not disclosed any other dispute-related expenses so I order no further reimbursement of expenses.

ORDERS

22. I order the respondent to pay the applicant, within 14 days, a total of \$653.69, broken down as follows:
 - a. \$524.42 as reimbursement for the damage to the applicant's vehicle,
 - b. \$4.27 in pre-judgment interest under the *Court Order Interest Act* from December 9, 2017, and
 - c. \$125.00 for tribunal fees.
23. The applicant is entitled to post-judgment interest, as applicable.
24. 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.
25. 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.

Darrell Le Houillier, Tribunal Member