



Civil Resolution Tribunal

Date Issued: October 31, 2018

File: SC-2017-004930

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Webster v. Jaylee Automotive Ltd.*, 2018 BCCRT 673

BETWEEN:

Tyrell Webster

APPLICANT

AND:

Jaylee Automotive Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

- 1) The applicant, Tyrell Webster, says the respondent, Jaylee Automotive Ltd., should pay him a \$2,906.88 refund for mechanical work done on his 2006 Ford F150 truck, because he was overcharged and the work was not performed properly. The

applicant is self-represented and the respondent is represented by Lee Salberg, its principal.

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 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. I find I am able to reasonably resolve this dispute based on the documentary evidence and written submissions before me.
- 4) 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.

ISSUE

- 5) The issue in this dispute is whether the respondent overcharged the applicant and failed to adequately repair his vehicle, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

- 6) 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.
- 7) The applicant brought his truck to the respondent twice. The first time was on July 18, 2017. The respondent's July 21, 2017 invoice #10683 for \$2,404.70 reflects this first repair. Of that amount, \$1,269 was for labour, \$879.40 for parts, plus tax. This invoice reflects the following service:
 - a) Replace spark plugs, coil connectors, and fuel filter (note spark plugs were hard to remove),
 - b) Replace both "cam sensors" for "cam solenoids",
 - c) Replace power steering pressure line and switch, tighten loose fitting, (note "needs [power steering] pump, no [pressure] at low RMP, also needs serpentine belt, oil soaked), and
 - d) Replace power steering pump and belt.
- 8) The applicant says he first brought the truck into the respondent for 2 problems: 1) a rough idle and stalling problem, and 2) a power steering problem (because it was tough to turn without giving gas from a standstill). The applicant says the respondent did the diagnosis, identified the issues and quoted "\$2,000 maximum" to have "those repairs" done. I find the applicant has not proved this "maximum" was provided by the respondent, which I find unlikely given the nature of hourly labour and parts for a mechanic's service.
- 9) July 24, 2017 was the second time the applicant brought his truck to the respondent. The respondent's July 25, 2017 invoice #10687 is for \$548.65, with roughly half for the cost of parts and the other half labour. The stated service work was "check stalling" with a detailed description of error codes relating to sensor

readings and an evaporation leak. The description notes a road test and “not sure how far customer would like me to go”, with the suggestion to replace “other O2 sensor”. The respondent submits the error codes at this visit were different than what the truck had at the first visit.

- 10) The applicant provided a copy of a September 18, 2017 paid invoice for \$476.45 from another mechanic shop, Greg’s Repair. The invoice states the “rack and pinion assembly” was replaced and the steering fluid flushed, plus a wheel alignment that represented \$150 of the bill. There is nothing in this invoice that is critical of the respondent’s work. It is also not clear to me what, if anything, in this invoice duplicates work billed by the respondent.
- 11) The applicant sent a video showing something dripping from the undercarriage of his truck. In the video, you can hear the applicant say it is obvious his truck is leaking power steering fluid, that it “looks like it is coming from over there” with a camera pan to an area of the motor, and that it is “obvious” the respondent “did not fix it”. A second video provided by the applicant shows him describing the line that was leaking. Given the lack of a date on the videos, and no evidence the applicant is a mechanical expert, I am unable to make any determination from these videos, other than at some point the truck was leaking fluid.
- 12) The respondent says the applicant’s truck was “barely” running, with no functional power steering, when he first dropped it off on July 18, 2017. The respondent says the applicant said he bought the truck “cheap” and initially expressed a willingness to spend the funds necessary to repair it. The respondent says the applicant’s concerns “were addressed and estimated accordingly” in their invoice #10683, which the respondent says the applicant authorized. The applicant admits he authorized the invoice, but suggests he only paid the respondent’s second invoice in order to get his truck back.
- 13) The respondent says the power steering was fine and there was never any issue mentioned of the failure of the “steering gear”, until the applicant started this tribunal dispute. The respondent says the steering gear was not part of their repairs and

there was no issue with it at the time of their repairs. The respondent says the error codes at the second drop off were unrelated to the work done during its first repair. The respondent also says that there were no problems or leaks at the time the applicant picked up his truck after the first repair had been completed, and that it did test drive the truck as per its usual practice.

- 14) The respondent further says that the applicant's later complaint was of an intermittent problem, which the respondent cannot assess and diagnose if the problem is not apparent when the truck is in its shop. The respondent also says the truck's missing catalytic converters can affect oxygen sensor performance and possibly cause a bad fuel mixture, which could cause the engine to run rough.
- 15) Despite being given the opportunity to do so, the applicant did not provide a reply submission. As noted above, the applicant bears the burden of proof. I find the applicant has not proved the respondent's work was negligent or of poor quality that it amounted to a breach of the parties' contract for the truck's repair. In order to succeed in negligence, the applicant must prove what the standard of care is and that the respondent failed to meet that standard. The applicant must also prove that the failure caused the respondent's claimed loss or damage.
- 16) I find the applicant has not proved these negligence elements, bearing in mind the respondent's undisputed response that it appropriately fixed the truck based on its presentation at the time they had it. For similar reasons, I find the applicant has not proved the respondent breached their repair contract.
- 17) As the applicant was unsuccessful, in accordance with the Act and the tribunal's rules I find she is not entitled to reimbursement of \$125 in tribunal fees.

ORDER

18) I order that the applicant's claims, and therefore this dispute, are dismissed.

Shelley Lopez, Vice Chair