



Civil Resolution Tribunal

Date Issued: December 11, 2018

File: SC-2018-002503

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *lee v. B. & M. Auto-Craft Collision Ltd.*, 2018 BCCRT 837

B E T W E E N :

kenny lee

APPLICANT

A N D :

B. & M. Auto-Craft Collision Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, kenny lee¹, says the respondent, B. & M. Auto-Craft Collision Ltd., damaged his vehicle's headlights when it was repairing his vehicle. The applicant claims \$1,600 for the headlights' damage. The respondent denies liability.
2. The applicant is self-represented, and the respondent is represented by Antonio Beninteso, an employee or principal.

JURISDICTION AND PROCEDURE

3. 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.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.
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

¹ The applicant's name is without capitalization, as this is how it is set out in the Dispute Notice.

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, or order any other terms or conditions the tribunal considers appropriate.

ISSUE

7. The issue in this dispute is whether the respondent damaged the applicant's vehicle's headlights, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

8. 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 submissions below as necessary to explain my decision.
9. It is undisputed that in September 2016 the applicant took his vehicle to the respondent for windshield replacement and hood repainting. The applicant says the respondent's painter did not cover both of the headlights while the car was painted, which he says created a white shade on both headlights. The applicant says the respondent tried to fix it, but the headlights still have scratches on top of them.
10. The applicant has not provided a clear chronology. Based on the evidence before me, at some point in 2017 the respondent worked on the headlights, at the applicant's request and at no cost. The applicant refers to this as "re-surfacing", and in the Dispute Notice that started this proceeding the applicant said he picked his vehicle back up in January 2018. The applicant says the resurfacing made the headlights worse, as there were more "cutting circles marks and frosty blurry film" now covering the whole surface.
11. The applicant provided undated photos of his vehicle's headlights. The applicant says the first set is from May 2016, before the respondent's September 2016 repair.

These do not appear to show any haze or scratches, but the headlights are not on and the photos were taken in daylight. The second set were taken at night, close up, and according to the applicant were taken by the Insurance Corporation of British Columbia (ICBC) in November 2017. The night photos appear to show some haze or scratches.

12. In his reply submission, the applicant provides the name and phone number for another mechanic, as a witness that the resurfacing was not successful. Parties are told in the tribunal facilitation process that if they want to rely on a witness' evidence they need to provide a statement and a phone number is not sufficient. This is consistent with the tribunal's mandate and online format.
13. The applicant's only other evidence was a September 2018 repair estimate from ICBC for \$371.01, which is for a side armrest claim and other headlight damage (that they were allegedly installed loose), that the applicant added to his dispute in the course of providing submissions. However, significantly, the applicant did not provide an invoice or repair estimate to support the \$1,600 claimed in this dispute.
14. The respondent says that when the applicant brought his vehicle in for repainting in September 2016, the applicant asked the respondent to do him a "favour" and remove a white shade that was on his headlights, as well as polish his mirror cap and remove pre-existing overspray on the left windshield post. The respondent said it told the applicant it would do its best, and that it did what it could to remove the haze from the headlights, at no cost to the applicant.
15. The respondent says that as per ICBC's requirements, the right front headlight assembly was removed and safely stored during painting. The respondent relies on his September 30, 2016 estimate that shows a line item for headlamp assembly. On balance, I accept the respondent's evidence, which as noted is supported by its estimate in evidence. The respondent says it was impossible for the white haze to have been caused by its repainting process. I agree that if the headlamps were removed for the painting process, it is unlikely they would have been damaged by paint.

16. The respondent says it told the applicant from the outset that the headlights would not be perfect, but that it “re-cleared” the headlights after the applicant complained, again at no additional cost to the applicant. As noted above, the dates are not clear in the evidence, but this re-clearing or re-surfacing took place in either November 2017 or sometime after, before January 2018. The respondent says ICBC never asked it to fix the headlights, which it says ICBC would do if ICBC thought the respondent had made a mistake.
17. On balance, I find the applicant has not proved his claims. The May 2016 photos were taken long before the respondent’s September 2016 repair, and are daytime photos with the headlamps off. At the same time, the applicant’s “after” photos were apparently taken long after the respondent’s repair, with the applicant having driven the vehicle for a significant period of time in the interim. I cannot conclude on the evidence before me that the applicant has proved the respondent caused the headlamp damage he alleges. Further, even if I had accepted that claim, the applicant has not proved the \$1,600 claimed as he has not provided a quote or invoice for that amount. The alleged claim for the armrest damage arose long after the respondent’s work on the car, and in fact long after this dispute started. I dismiss that claim, along with the applicant’s claims related to the headlamps.
18. In summary, given my conclusions above, I dismiss the applicant’s claims. As the applicant was unsuccessful in his claims, in accordance with the Act and the tribunal’s rules I also find the applicant is not entitled to reimbursement of tribunal fees or dispute-related expenses.

ORDER

19. I order the applicant’s claims and this dispute are dismissed.

Shelley Lopez, Vice Chair

