



Civil Resolution Tribunal

Date Issued: February 19, 2019

File: SC-2018-004801

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aeinparast v. Fountain Tire Ltd.*, 2019 BCCRT 200

B E T W E E N :

Abdolkarim (Kam) Aeinparast

APPLICANT

A N D :

Fountain Tire Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. The applicant Abdolkarim (Kam) Aeinparast says the respondent Fountain Tire Ltd. damaged his car when they replaced a coolant level sensor. He claims \$1,128.78, which he says is the cost of repairs to fix the damage done by the respondent.

2. The respondent says their technician noted that the car's coolant hoses were brittle due to the vehicle's age. A hose cracked when it had to be removed to access the sensor. The technician called the applicant and received approval to replace the \$75 hose. Before the replacement hose arrived, the applicant attended at the respondent and said he would not be paying for the replacement hose. The respondent said it could not complete the work unless the part was paid for. A dispute arose, ending when the applicant took his car and left. The respondent did not do any more work on the car.
3. The respondent denies having damaged the car's engine. It says it is not responsible for repair costs the applicant incurred afterward.
4. The applicant is self-represented. The respondent is represented by an employee or principal, Chris Ruimy.

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 118 of the *Civil Resolution Tribunal 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.
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 make one or more of the following orders:
 - a. order a party to do or stop doing something;
 - b. order a party to pay money;
 - c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

9. The issue in this dispute is whether the car service provided by the respondent was substandard, such that the respondent should pay the applicant for repairs to the car that were required later.

EVIDENCE AND ANALYSIS

10. The applicant says his car is a 2007 Mercedes. The respondent says the car is a 2002 Mercedes. Nothing turns on the difference.
11. Based on the evidence before me, I find the facts are as follows. When the respondent's technician removed a hose to access the coolant level sensor, the hose broke. The hose was noted to be brittle due to age and heat cycling.
12. The evidence is undisputed, and I find that the respondent's technician called the applicant and he approved replacing the hose, at a cost of \$75.
13. However, Mercedes was then delayed in delivering the replacement hose. At that stage, the applicant attended at the respondent and said he would no longer pay for the part.

14. The applicant was unhappy with the loaner car he had been provided. He demanded a Mercedes loaner car. The respondent refused.
15. The applicant left with his car.
16. On June 11, 2018, the applicant had repairs of the coolant system completed at a Mercedes dealership at a cost of \$728.44.
17. The applicant provided no evidence to establish that the respondent did anything wrong in assessing or working on his vehicle. There is no evidence that he paid the respondent anything for their assessment or ordering of the part.
18. The report from the Mercedes dealership where the applicant later had repairs done does not identify any problems caused by the respondent. It only identifies problems with the coolant system, which is what the applicant was seeking to repair in the first place.
19. I find that the applicant has not established any claim against the respondent, on a balance of probabilities.
20. Under section 49 of the Act, and tribunal rules, as the applicant was unsuccessful, I find he is not entitled to reimbursement of tribunal fees. The successful respondent paid no fees.

ORDER

21. The applicant's claims and dispute are dismissed.

Julie K. Gibson, Tribunal Member