



# Civil Resolution Tribunal

Date Issued: March 6, 2019

File: SC-2017-003959

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mehrabani v. Granada Motor Inn*, 2019 BCCRT 270

**B E T W E E N :**

Araz Mehrabani

**APPLICANT**

**A N D :**

Granada Motor Inn

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Sarah Orr

## **INTRODUCTION**

1. This is a dispute about a hotel reservation. The applicant, Araz Mehrabani, paid the respondent, Granada Motor Inn, \$584.20 for a hotel room reservation in Penticton, British Columbia through the website Expedia. The applicant says he subsequently tried to cancel the reservation and receive a refund but was told his reservation was non-refundable. The applicant says that through a series of miscommunications

with the respondent and Expedia, the reservation for his hotel room was cancelled, but he did not learn of the cancellation until he was already driving to Penticton on the day of his reservation. The applicant wants the respondent to reimburse him \$584.20 for the cost of the hotel room and to pay him \$120 for the cost of fuel to drive to Penticton from Vancouver.

2. The respondent says it received notice from Expedia that the applicant had cancelled his reservation, and that it is bound by Expedia's policy prohibiting refunds.
3. The applicant is self-represented and the respondent is represented by an employee or principal.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Some of the evidence in this dispute amounts to a "she said, he said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanor in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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 the recent decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and that oral hearings are not necessarily required where credibility is in issue.

6. 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.
7. 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**

8. The issue in this dispute is whether the respondent must reimburse the applicant \$584.20 for the cost of the hotel room and \$120 for the cost of fuel.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim like this one, the applicant must prove their claim on a balance of probabilities. This means the tribunal must find it is more likely than not that the applicant's position is correct.
10. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision. For the following reasons, I dismiss the applicant's claims.
11. It is undisputed that in July 2017 the applicant reserved a hotel room in Penticton with the respondent for 3 nights over the August 2017 long weekend through the website Expedia. The respondent charged the applicant's credit card \$584.20 on July 14, 2017, which was the entire cost of the hotel room for 3 nights.

12. The applicant says a few days after booking the hotel room Health Canada raised the air quality advisory for Penticton from level 4 to 7 because of wild fires. He says he immediately contacted Expedia to cancel the hotel reservation and receive a refund because the air quality in Penticton was unsafe for his pregnant wife. The applicant says Expedia told him they had contacted the respondent on his behalf to cancel the reservation, but the respondent had refused to provide a refund. The applicant says he then received a call from the respondent who said they could not issue a refund because of Expedia's refund policy but assured the applicant there was no significant smoke affecting Penticton's air quality. The applicant says the respondent instructed him to contact Expedia directly if he wished to receive a refund.
13. The applicant says he contacted Expedia again a few days later and was told that his hotel room reservation was a "pay later" booking, Expedia had not charged him for the hotel room, and he would have to contact the respondent directly about the cancellation. However, as noted above the uncontested evidence is that the respondent had already charged the applicant the entire cost of the hotel room.
14. The applicant says he decided that since he had already paid for the hotel room he would travel to Penticton and make use of the hotel reservation with a friend. The applicant says on the morning of August 4, 2017 he called the respondent and informed them that since they had refused to refund his hotel room, he was driving to Penticton that day to make use of his reservation. The respondent informed him they had cancelled his hotel room on instructions from Expedia, and that there were no rooms available. The applicant says he then phoned Expedia who told him the reservation had not been cancelled on their end. The applicant says he then made other plans for the weekend.
15. The respondent says on the morning of August 4, 2017 it checked Expedia's website and found notice of the applicant's cancellation, which it printed out. The Expedia print-out shows the reservation was cancelled on August 4, 2017 at 6:44 a.m. and that the cancellation penalty was \$584.20, the full cost of the room. The

document also shows the cancellation policy which indicates that the full cost of the hotel stay would be charged in the event of cancellation, regardless of when that cancellation was made. It is unclear from the document whether this cancellation policy was determined by Expedia or by the respondent, however the respondent says it follows Expedia's cancellation policies.

16. The respondent also submitted an email it received from Expedia on July 29, 2018 with a list of cancelled reservations between August 1 and 15, 2017. The applicant's reservation is on the list next to a column indicating the reservation had been canceled.
17. The applicant says on August 8, 2017 he received an email asking him to rate his stay at the hotel, although that email is not in evidence. He says he called Expedia to inquire about his reservation, and Expedia informed him that it had not cancelled his reservation and that their account showed that he was a no-show at the hotel.
18. In his submissions the applicant refers to his Expedia itinerary for the hotel reservation which he says is still viewable on his Expedia account, however that itinerary is not in evidence. The applicant says his itinerary states, "This reservation is non-refundable and cannot be canceled or changed," and that it also states, "This hotel requires an initial deposit which will be charged to your credit card. The remaining balance will be collected by the hotel during your stay."
19. In the circumstances, I am not satisfied that the applicant is entitled to a refund of the cost of the hotel. The evidence before me indicates that the charge for the hotel room was non-refundable, as booked through Expedia. The applicant's evidence suggests that Expedia gave him conflicting or inaccurate information about the status of his reservation, however he has not named Expedia as a party to this dispute, and I decline to comment on any claims the applicant may have against Expedia in that regard. I find the respondent has established that it received notice from Expedia that the applicant had cancelled its reservation, and it charged the applicant the full cost of the room in accordance with the cancellation policy. I dismiss the applicant's claim for a refund of \$584.20.

20. The applicant also wants the respondent to reimburse him \$120 for fuel to drive to Penticton. He submitted an excerpt from his credit card statement showing he spent \$120.03 on fuel in Vancouver on August 4, 2017. He says he is claiming this amount for “gas wasted for driving halfway to Penticton and back.” In his submissions he says he started driving to Penticton on August 4, 2017, and that he was approximately halfway there when the respondent told him the hotel room was not available, so he “turned around” and drove “back.” However, he also says he “basically drove up to Penticton for no reason.” The applicant’s phone records show the applicant made many calls from Penticton between August 4 and 7, 2017, indicating that the applicant was in Penticton that weekend. Given my findings above that the respondent is not responsible for the requested hotel refund, and the fact that the applicant provided conflicting evidence as to his whereabouts on the August 2017 long weekend, I dismiss the applicant’s claim for reimbursement of fuel costs.

21. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. As the applicant was unsuccessful I find he is not entitled to reimbursement of his tribunal fees, and he has not claimed any dispute-related expenses.

## **ORDER**

22. I dismiss the applicant’s claims and this dispute.

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Sarah Orr, Tribunal Member