



# Civil Resolution Tribunal

Date Issued: March 12, 2019

File: SC-2018-004814

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *SIDHU v. KWANTLEN SQUARE LAUNDROMAT*, 2019 BCCRT 299

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

GAGANDEEP KAUR SIDHU

**APPLICANT**

**A N D :**

KWANTLEN SQUARE LAUNDROMAT

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Julie K. Gibson

### **INTRODUCTION**

1. The applicant Gagandeep Kaur Sidhu went to the the respondent Kwantlen Square Laundromat to launder her clothing. In May 2018, the applicant says one dryer burnt her clothing. She claims the \$600 replacement value for her clothes.

2. The respondent says the applicant has not proven that its machine damaged her clothing. It says it has not had any other complaints about burn damage. The respondent also says users are responsible for choosing appropriate temperature settings at this self-serve facility. The respondent asks for the dispute to be dismissed.
3. The applicant is self-represented. The respondent is represented by employee or principal Gian Gill.

## **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. 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.
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 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.

## **ISSUE**

8. The issue in this dispute is who is responsible for the damage to the applicant's clothing, which she says arose when she dried the clothing at the respondent's laundromat.

## **EVIDENCE AND ANALYSIS**

9. In this civil claim, the applicant bears the burden of proof on a balance of probabilities. I have reviewed all of the evidence but refer to it only as necessary to explain my decision.
10. On May 21, 2018 the applicant attended at the respondent laundromat. She washed her clothing and then placed it in a dryer for about 32 minutes. At the same time, she was using another dryer to dry bedding and towels.
11. The respondent filed a photograph in evidence that shows signage at the laundromat reading "We are not responsible for any lost or stolen item". The applicant points out, and I accept, that this signage does not apply to the issue of damaged clothing.
12. The applicant did not provide evidence of what temperature setting she used for her clothing. She wrote only that most of the clothing had been washed and dried on the same settings before.

13. When the applicant returned about half an hour later, the applicant says a smell was emanating from the first dryer. As she put her clothing back into her laundry bag, she realized the clothing was burnt.
14. The applicant says she showed the clothing to the employee who was present. The owner was not there. The employee, who was new, did not offer any solution. She called the owner. The owner's husband attended about 20 minutes later and examined the machine.
15. The respondent provided evidence from Gian Gill that the machine was inspected and found to be functioning normally.
16. The respondent also provided evidence from a laundry machine service technician, J.K., that the machines have a sensor that would cut machine power if the temperature exceeded factory settings. J.K. points out that commercial dryers generally have higher temperature settings than home models. J.K. explained that while cottons could be dried at the highest settings in these machines, "...synthetics and blends should be dried as per the garment's instructions for tumble dryers, likely low heat."
17. The applicant provided photographs of the garments she says were damaged. She did not provide the care instructions for those garments. While several of the items appear to be cotton, at least one is an undergarment that is not all cotton.
18. Another photographed item has hook closures on it that could damage other items. The applicant also filed a photograph described as a "photograph of ripped spaghetti" strap. This is consistent with washing items with hook closures loose in the load of laundry. The applicant did not explain how a ripped strap would be caused by dryer malfunction and I find that it was not. A similar analysis was used in *Doyle v. Aldo's Cleaners and Laundry Service Ltd.*, 2019 BCCRT 162, at paragraph 15, which is not binding on me but which I find persuasive.
19. The black skirt photographed appears to be a synthetic blend. The applicant did not provide photographs of its care tag.

20. The respondent says the applicant may have set the temperature settings too high for the clothing that included fabric blends, such that if the dryer burned the clothing, it is the applicant's responsibility.
21. Turning to the nature of the clothing damage, the photographs show that the black skirt suffered worse damage than some of the cotton items, which had small black marks on them. Based on the evidence and submissions before me, I find this more consistent with the breakdown of one clothing item dried above its recommended setting than with a malfunction.
22. I prefer the respondent's evidence about what happened. I say this because the burden is on the applicant. She did not address two important points: what temperature settings she used and the fabric composition of the clothing she dried.
23. The photographs filed in evidence show that at least some synthetic blends were dried, including delicates. While it is unfortunate that some of her clothing was damaged, I find that the applicant has not met the burden upon her to prove that the machine malfunctioned and caused the damage. As well, apart from the receipts for about \$85, the applicant did not prove her claim as to the value of the clothing.
24. 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. As the applicant was unsuccessful, I find she is not entitled to reimbursement of tribunal fees.

## **ORDER**

25. I dismiss the applicant's claims and this dispute.

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Julie K. Gibson, Tribunal Member

