



# Civil Resolution Tribunal

Date Issued: March 21, 2019

File: SC-2018-007739

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wilson Wholesale Supply Ltd. v. Son Motors Ltd.*, 2019 BCCRT 354

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

Wilson Wholesale Supply Ltd.

**APPLICANT**

**A N D :**

Son Motors Ltd.

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Lynn Scrivener

### **INTRODUCTION**

1. This is a dispute about the purchase of a used vehicle. The applicant, Wilson Wholesale Supply Ltd., bought a van from the respondent, Son Motors Ltd., in April of 2017. The applicant says that the vehicle started to fail in August of 2018, and an inspection discovered broken parts. The applicant seeks compensation for \$2,989.78 in repair costs. The respondent denies that it is responsible for the damages claimed by the applicant.

2. The applicant is represented by Brian Wilson and the respondent is represented by Omar Soadi. I infer that these individuals are principals of the applicant and respondent.

## **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 118 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. 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.
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 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 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**

7. The issue in this dispute is whether the respondent is responsible for the \$2,989.78 in repair costs claimed by the applicant.

## EVIDENCE AND ANALYSIS

8. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. The applicant and the respondent provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only that which is necessary to provide context to my decision.
9. The applicant purchased a 2013 cargo van from the respondent in April of 2017. The applicant was aware that the vehicle had been rebuilt and had passed an inspection. The Motor Vehicle Purchase Agreement shows that the vehicle had a “rebuilt status”, and that the respondent agreed to provide a 60-day warranty on the air conditioner and a 6-month global warranty.
10. In August of 2018, the applicant says the air flow system began to fail and a loud rattle started. The applicant took the van to a mechanic, who advised that the internal and external heater boxes and battery were broken. The applicant paid \$2,989.78 to replace the damaged parts.
11. The applicant provided photographs of the damaged parts removed from the vehicle. The applicant says the only way the parts could have been damaged was through impact as it is not possible for the parts to break under normal conditions. The applicant’s view is that the respondent should be responsible for the damaged parts, as they were broken in the previous accident and were not replaced during the rebuilding process. According to the applicant, this is not a warranty issue as the parts were already broken.
12. The respondent says that the vehicle was in working order when the applicant purchased it, and continued to function for more than a year and more than 15,000 kilometers. The respondent says that there is no way that, if the parts were broken at the time of purchase, the vehicle would have functioned for 16 months. According to the respondent, the parts involved “are either working or not”.
13. Based on the evidence before me, I accept that there were broken parts in the applicant’s vehicle and that the applicant paid to replace them. The invoice from the applicant’s mechanic details the replacement of the heater box (internal and external), blower motor and battery, and also contains charges for oil, refrigerant and other supplies. However, this is not determinative of the respondent’s responsibility for the damages claimed.
14. In this case, the respondent is in the business of selling cars. As the sale of the vehicle was not private in nature, the sale was not “buyer beware”. Instead, under

section 18 of the *Sale of Goods Act (SGA)*, there was an implied warranty that the vehicle was in the condition described and was of saleable quality. Section 18 also contains an implied condition that the vehicle would be durable for a reasonable period of time having regard to the use to which it would normally be put and to all the surrounding circumstances of the sale or lease. The express warranty provided by the respondent does not negate the warranty and condition under the SGA.

15. It does not appear that the applicant arranged for its own inspection of the vehicle prior to the purchase. An April 16, 2017 Private Vehicle Inspection Report completed by a third party indicated that the vehicle passed a complete inspection, which was required as the vehicle was “rebuilt from salvage”. This report indicated “pass” results for various items including the heaters and battery. No inspection comments were noted. The inspection report, as well as the Motor Vehicle Purchase Agreement, stated that the vehicle complied with the requirements of the *Motor Vehicle Act*.
16. As noted above, the applicant says that it is not possible for the described parts to break under normal conditions and could only be broken through impact. Although the applicant stated that its mechanic confirmed this theory, the mechanic’s invoice does not contain any commentary about the cause of the problems with the parts that were replaced. There is no statement from that mechanic or any other expert in this regard. Further, there is no expert evidence to explain how a vehicle with broken parts could function for more than a year before developing problems.
17. I find that the passed inspection and the fact that the vehicle operated without reported problems for approximately 16 months support the conclusion that it was durable for a reasonable period as required by section 18 of the SGA.
18. I find that the applicant has not met its burden of establishing, on a balance of probabilities, that the respondent is responsible for the broken parts in the vehicle. Accordingly, I dismiss his claim for damages.
19. 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 not successful, I dismiss his claim for reimbursement of tribunal fees and expenses.

**ORDER**

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

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Lynn Scrivener, Tribunal Member