



Civil Resolution Tribunal

Date Issued: April 23, 2019

File: SC-2018-008241

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hsiao v. Dean's Auto Ltd.*, 2019 BCCRT 486

B E T W E E N :

Wey-Jong Hsiao

APPLICANT

A N D :

Dean's Auto Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Wey-Jong Hsiao, hired the respondent, Dean's Auto Ltd., to fix an engine oil leak in his car. The respondent charged \$3,322.48. The applicant believes that the respondent overcharged him and seeks a refund of \$2,000.
2. The applicant is self-represented. The respondent is represented by an employee.

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*. 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 some respects, this dispute amounts to a "he said, he said" scenario with both sides calling into question the credibility of the other. In the circumstances of this dispute, I find that it is not necessary for me to resolve the credibility issues that the parties raised. I therefore decided to hear this dispute through written submissions.
5. The applicable tribunal rules are those that were in place at the time this dispute was commenced.
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 whether the respondent overcharged the applicant for the engine repair and, if so, by how much.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove his case on a balance of probabilities. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.
10. On March 10, 2017, the applicant took his 2008 BMW sedan to the respondent because of an engine oil leak. It is undisputed that the respondent gave the applicant a verbal estimate of \$3,000 to repair the leak. The applicant also says that the respondent's owner told him that he would be charged for 20 hours of labour. Despite being surprised by the high cost, the applicant told the respondent to fix the leak.
11. The respondent's invoice for these repairs lists the different parts that the respondent replaced. It does not list the cost of each part and does not break down how long each aspect of the repairs took. It simply provides a total for parts and labour of \$2,966.50, plus GST and PST. The invoice does not specify an hourly rate for labour. The respondent says that it charged \$105 for labour for these repairs.
12. On August 25, 2017, the applicant returned to the respondent for an issue with his car's brakes. While there, the applicant asked the respondent to check if the engine was leaking oil, which the respondent did, finding no leak. The invoice for this work breaks down the cost of labour and parts but does not specify an hourly rate. The respondent says that it charged \$95 for labour for these repairs.
13. On July 18, 2018, the applicant went to another mechanic because he had noticed that he was replacing the engine oil more often. The applicant showed the new mechanic the respondent's invoice for the March 2017 repairs. The applicant says

that the new mechanic told him that the repairs should only have cost around \$1,000. The applicant provided an estimate from this mechanic.

14. The same day, the applicant returned to the respondent to demand an explanation. The respondent insisted that it did not overcharge the applicant.
15. The applicant disputes 2 aspects of the respondent's invoice: the hourly rate and the number of hours. While the applicant does not frame his case in this way, I find that he is effectively alleging that the respondent breached the parties' contract by charging the applicant at a higher hourly rate and for hours that the respondent either did not spend or did not need to spend fixing the car.
16. There is no written contract between the parties and there is no evidence that the parties discussed the respondent's hourly rates. The only discussion of cost was the \$3,000 estimate, which the applicant accepted.
17. In the absence of an explicit term about the respondent's hourly rate, I find that the parties did not agree to a specific hourly rate. Rather, I find that the applicant agreed to pay the respondent at its standard hourly rates for however long the repairs took.
18. With respect to the hourly rate, the applicant relies on the August 2017 repair to establish that he was overcharged \$10 per hour. The respondent says that it charges different hourly rates for different types of work, based on complexity. The respondent says its rates range from \$90 to \$115 per hour. The respondent says that the applicant's car had a complicated V8 engine, so work on the engine attracted a higher rate. In contrast, the brake work was less complicated, so it attracted a lower hourly rate.
19. I find that the respondent's reason for charging different rates for different types of work is reasonable. I note that the applicant's new mechanic's estimate provided for an hourly rate of \$100, which is close to the \$105 that the respondent charged.

20. With respect to the applicant's argument that the respondent charged for too many hours, the respondent provided data from a service called Alldata. The respondent says that Alldata is an online database that provides labour estimates for different types of repairs for different vehicles. The respondent says that most mechanics use a service of this type to provide reasonably accurate estimates. The respondent says that Alldata estimated 26.5 hours for the March 2017 repairs. The respondent only charged for 20.9 hours because there was some overlap in the work required for the various repairs.
21. Turning to the new mechanic's estimate, it does not include all of the work that is on the respondent's Alldata estimate. The new mechanic does not provide a statement to explain the estimate. I find that the applicant's estimate does not prove that the respondent spent too many hours on the repairs.
22. As for the applicant's allegation that the respondent told him that it would charge him 20 hours in labour for the March 2017 repairs, I find that this statement came in the context of providing an estimate and was not a firm commitment on the final price of the repairs. I find that it is unlikely that a mechanic would agree to a fixed number of hours or a fixed cost for a significant engine repair.
23. I therefore find that the applicant has not proven that the respondent overcharged the number of hours it spent on the repairs. The respondent took fewer hours than the Alldata estimate because of efficiencies in doing multiple repairs at once. If the respondent wanted to overcharge the applicant, as the applicant alleges, I would expect it to charge the maximum number of hours it could justify. While it would have been clearer if the respondent's initial invoice had stated the hourly rate, the number of hours spent, and the cost of each individual part, I am satisfied based on the respondent's evidence that the charges were appropriate.
24. The applicant also argues that the respondent did not fix the problem with the engine, which lowered the value of his car. The applicant says that he sold the car for \$1,000 in August 2018 but would have received at least \$10,013 if the respondent had properly fixed the engine.

25. The respondent says that when he inspected the car in July 2018, the oil leak was from the oil pan at the bottom of the engine, which was unrelated to the March 2017 repairs, which were limited to the top of the engine. The respondent says that it offered to do these further repairs for around \$3,000, but the applicant declined.
26. The applicant provided no objective evidence to contradict the respondent's statement about the new source of the leak. In any event, the applicant does not explain why a repair that would cost around \$3,000 lowered the value of his car by more than \$9,000.
27. In summary, I find that the applicant has failed to prove that he is entitled to a discount or refund for the car repairs.
28. 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 dismiss the applicant's claim for tribunal fees and dispute-related expenses. The respondent did not claim any dispute-related expenses.

ORDER

29. I dismiss the applicant's claims, and this dispute.

Eric Regehr, Tribunal Member