



# Civil Resolution Tribunal

Date Issued: June 18, 2019

File: SC-2017-006769

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Korkuczanska v. Serengeti Enterprises Inc. et al*, 2019 BCCRT 744

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

Svetlana Korkuczanska

**APPLICANT**

**A N D :**

SERENGETI ENTERPRISES INC. and Amin A Jaffer

**RESPONDENTS**

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## **REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

1. The applicant Svetlana Korkuczanska took a white Jaeger coat and a silk dress to the dry-cleaning business “Liberty Cleaners”, operated by the respondent, Serengeti Enterprises Inc. (Serengeti), which is owned by the respondent Amin A Jaffer. The

applicant says Serengeti damaged her coat and gave away the silk dress she had left for cleaning. The applicant claims \$3,800 for the coat and \$900 for the dress, for a total of \$4,700. The respondents deny liability.

2. The parties are each self-represented.

## **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. 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.
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 9.3(2), 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.

## **ISSUE**

7. The issue in this dispute is to what extent, if any, the respondent dry-cleaners owe the applicant \$4,700 for damaged or missing clothing.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the burden of proof is on the applicant to prove her claims on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
9. First, there is no evidence that the respondent Amin A Jaffer had any contract or agreement with the applicant. Rather, it is undisputed the applicant brought her clothing to the business Liberty Cleaners, although I note the respondents deny any knowledge of the coat. It is uncontested that Serengeti owned Liberty Cleaners. Given these facts, I dismiss the applicant's claims against Mr. Jaffer.
10. Second, I dismiss the applicant's claim for \$900 for the silk dress. Based on the respondents' response and the applicant's final reply, I find the applicant ultimately was able to retrieve her silk dress after Liberty Cleaners located it for her. In short, the applicant's submissions do not address the silk dress and are focused on her damaged white coat. I find the silk dress issue was resolved.
11. The remaining issue is whether Serengeti is responsible for the alleged damage to the applicant's silk/wool blend coat. I note Liberty Cleaners went out of business in November 2017, but there is nothing in the evidence or submissions before me that Serengeti is not an active company.
12. The applicant's chronology of events is vague. Based on the evidence and submissions before me, I find the relevant facts are as follows.

13. The applicant started this dispute in November 2017. In her application, she said she brought the coat for cleaning “last winter”. She said she returned it to them as it was not cleaned properly. She said her assistant then picked up the coat after the second cleaning and put it in her apartment while the applicant was away. The applicant provided no dates.
14. The applicant stated that in June 2017 she went to wear her coat and to her “shocking surprise” found it was badly damaged. The applicant says she tried calling Liberty Cleaners without success, and then went there in “August and September” of 2017. The applicant’s apparent explanation for not attending sooner is that she is a busy doctor who travels frequently.
15. The applicant’s only documentary evidence about Liberty Cleaners’ cleaning of her coat are undated photos of the coat. The photos show what appears to be pulls or a burn patch on the white left-side sleeve. The applicant submits the coat has a label describing how it should be cleaned but did not submit a photo of the label. The applicant also did not submit her dry-cleaning receipt or provide any reasonably precise dates as to when Liberty Cleaners cleaned the coat.
16. The applicant notes, based on another customer’s receipt, that the respondents say it advises customers on its receipt that it takes no responsibility for cleaning silk garments, but the applicant denies she was ever told that. The difficulty for the applicant is that she bears the burden of proof in this dispute and she has not provided the dry-cleaning receipt she was given when she had the coat cleaned. As noted, she has also not provided a copy of the coat’s label or cleaning instructions.
17. The applicant says Liberty Cleaners “withheld the damage” to the coat when it returned it to her assistant. Yet, there is no statement in evidence from her assistant. The applicant does not explain how the coat was packaged by the respondent, but she does not deny that it was in clear dry-cleaning plastic, which presumably would have made it fairly easy to see the damage on even a casual inspection.

18. Further, given the applicant says the coat was not cleaned properly the first time, I find it unlikely (or at least unreasonable) that the applicant would wait for several months before checking to see if the expensive coat was properly cleaned the second time. All of the above leads me to conclude the applicant has not proved the coat was damaged by Liberty Cleaners. Here, I note the respondents' submission that it is not even aware of cleaning the coat in question.
19. In summary, given the passage of time between the alleged second cleaning, the absence of a dry-cleaning receipt or evidence from the applicant's assistant, I find the applicant has simply not met the burden of proving that the respondents are responsible for the damage to her coat.
20. Given my conclusion above, I find I do not need to address the applicant's claimed compensation in any detail. I find the applicant's claims must be dismissed.
21. In accordance with the Act and the tribunal's rules, as the applicant was unsuccessful I find she is not entitled to reimbursement of tribunal fees.

## **ORDER**

22. I order that the applicant's claims and this dispute are dismissed.

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Shelley Lopez, Vice Chair