



Civil Resolution Tribunal

Date Issued: June 26, 2019

File: SC-2019-002366

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *ARORA v. PADDA*, 2019 BCCRT 779

BETWEEN:

RAGHBIR ARORA

APPLICANT

AND:

SUKHDEV PADDA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This is a contractual dispute about compensation. The applicant, RAGHBIR ARORA, says that the respondent, SUKHDEV PADDA, inappropriately deducted \$1,400 from his compensation. He seeks an order for the return of that amount. The respondent's position is that the deduction was made in accordance with the terms of the contract between the parties.

2. The parties are 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. 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 9.3(2), 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.
7. This dispute concerns deductions from compensation for work performed under a contract. The parties agree that the applicant is an independent contractor rather than an employee. In these circumstances, I find that the applicant's claim falls within the tribunal's small claims jurisdiction under the Act, and not within the

exclusive jurisdiction of the Employment Standards Branch under the *Employment Standards Act*.

ISSUE

8. The issue in this dispute is whether the respondent should reimburse the \$1,400 in deductions from the applicant's compensation.

EVIDENCE AND ANALYSIS

9. In a civil dispute such as this, an applicant bears the burden of proof on a balance of probabilities. The parties have 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.
10. The applicant leases a vehicle from the respondent, which he uses to drive as an independent contractor for a taxi company.
11. On February 12, 2019, the applicant was involved in a single-vehicle collision that resulted in damage to the vehicle. The insurer determined that the applicant was at fault for the collision. The respondent deducted a total of \$1,400 from the applicant's compensation for expenses related to the collision. The parties disagree as to whether these deductions were permitted by their agreement.
12. The agreement between the applicant and the respondent states that the applicant "must pay traffic fines, parking tickets, tolls, or other fees relating to the operation of the Taxicab". This agreement also states that "In the event of any repairs caused by an accident, [the applicant] will be responsible for any deductible or uninsured portion of the repair expenses, as well as any insurance surcharge relating to the accident".
13. In a September 23, 2013 Taxi Driver ID Agreement between the applicant and the taxi company, the applicant acknowledged that he was not an employee of the

company and that he was “responsible for my own Source Deductions, income tax, HST, ICBC insurance deductibles, Traffic Violations etc.”

14. The applicant says that the respondent deducted \$800 from his earnings for an insurance deductible. A February 26, 2019 letter from the insurer confirms that the applicable deductible was \$1,000, not the \$800 described by the applicant. While the applicant did not explain the discrepancy, I find that nothing turns on this.
15. The applicant says the deductible is the respondent’s responsibility as the policy holder. The letter from the insurer shows that the taxi company, not the respondent, holds the insurance policy. In any event, the agreement between the parties clearly states that the applicant would be responsible for any insurance deductibles. I am satisfied that the deductible is the applicant’s contractual responsibility, and find that he is not entitled to reimbursement of the \$800 claimed and I dismiss this aspect of the applicant’s claim.
16. The applicant also claims that the respondent inappropriately deducted \$300 for GST. An invoice from an auto body shop shows a \$327 charge for GST that was not covered by insurance. The parties’ agreement provides that the applicant is responsible for the “uninsured portion of the repair expenses”. Taxes are not specifically excluded. As such I find that the GST amounts to a portion of the uninsured repair expenses which are the responsibility of the applicant.
17. The applicant also submits that the respondent will be able to recover the GST amount through an input tax credit, and therefore will suffer no loss. Documentation provided by the applicant shows that a GST registrant may be eligible to claim input tax credits for expenses related to commercial activities. However, he has not proven that the respondent is a GST registrant or that a credit would be received, in whole or in part, for the amount paid. I dismiss the applicant’s \$300 claim about the GST.
18. The applicant also claims that the respondent deducted a \$300 office administration expense that was not contemplated by their agreement. The evidence before me

contains a car statement in the respondent's name. This document lists a variety of expenses related to the operation of the taxi, including a \$300 charge for "ICBC ACCIDENT DEDUCTIBLE". This amount appears to be separate from the \$1,000 insurance deductible discussed above.

19. A May 24, 2019 email from a manager at the taxi company states that its policy is to charge a "fine" to drivers who cause accidents. More information is provided by the respondent, who says that if a driver is involved in an at-fault motor vehicle collision, the taxi company's policy requires that he or she is required to pay a \$300 fee to the taxi company. He says this fee allows it to mitigate insurance cost increases for all operators.
20. The parties' agreement provides that the applicant is responsible for any "fees relating to the operation of the Taxicab" or any "insurance surcharge" resulting from an accident. No matter how it is characterized, I find that the fee charged by the taxi company is the applicant's responsibility under the terms of his agreement with the respondent. I dismiss the applicant's \$300 claim for the administration fee.
21. Finally, the applicant suggests that the collision would not have occurred if the respondent had installed snow tires on the vehicle, and submits that the respondent should be responsible for all or part of the collision-related costs as a result. The respondent says the applicant assumed all the risks of operating the vehicle by entering into their agreement.
22. The May 24, 2018 email from the taxi company manager states that it "encourages and expects that all operators equip their vehicle with winter tires during the winter season". The respondent does not appear to dispute the applicant's assertion that snow tires were not installed on the vehicle. However, I find that the applicant has not established that the presence of snow tires would have prevented the collision. Therefore, it is not necessary for me to consider whether the apportionment of liability for accident-related costs would have been permitted by their agreement.

23. In summary, I find that the applicant has not proven that the respondent made deductions from his compensation that were not contemplated by their agreement. I find that the applicant is not entitled to the reimbursement of any of the amounts claimed.

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 dismiss his claim for reimbursement of tribunal fees. He did not make a claim for dispute-related expenses.

ORDER

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

Lynn Scrivener, Tribunal Member