



Civil Resolution Tribunal

Date Issued: July 4, 2019

File: SC-2018-009235

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Edin v. Radnoush Fathi-Movahedi (dba Able Autoglass)*, 2019 BCCRT 803

B E T W E E N :

Amelia Edin

APPLICANT

A N D :

Radnoush Fathi-Movahedi (Doing Business As Able Autoglass)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. The applicant, Amelia Edin, claims that the respondent, Radnoush Fathi-Movahedi (Doing Business As Able Autoglass), caused electrical damage to her car by improperly installing her windshield. She claims the windshield was not sealed and

this caused a leak that damaged the circuit board. She claims \$679.42 for the cost of repairing the electrical damage.

2. The respondent denies the claim. He says the electrical damage was not caused from the windshield seal. He says the windshield was tested at his garage and at two other shops, and the results showed no leaks.
3. The parties are each self-represented.

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 (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 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.

ISSUE

8. The issue in this dispute is to what extent, if any, does the respondent owe the applicant \$679.42 for electrical repairs.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the burden of proof is on the applicant to prove her claim on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
10. On September 29, 2018, the respondent replaced the applicant's cracked windshield in her 2003 Chevrolet Tracker. The applicant claims she started to have electrical problems and malfunctioning lights soon after the windshield replacement. It is undisputed that on October 7, 2018, the Tracker had a complete electrical failure.
11. The applicant brought her Tracker to a repair shop, Perform-X Automotive, for inspection and repairs. According to Perform-X's invoice, its mechanic found water ingress on the printed circuit board causing internal electrical failure. The invoice states that the mechanic tested the windshield for leaks using compressed air with soap and found the water ingress was from a leak in the left vertical windshield seal.
12. Perform-X repaired the Tracker's electrical problems and the applicant paid Perform-X \$679.42, the amount claimed in this dispute.

13. The applicant returned immediately to the respondent's shop for her windshield leak. The respondent says he tested the windshield and found there was no leak. He does not say how he tested the leak. The applicant says the respondent only inspected the windshield visually, which I accept since the respondent did not say otherwise though he had the opportunity to do so.
14. The parties agree that they then travelled together to a repair shop, Royal City Auto, to further test the windshield for leaks. At Royal City Auto, the respondent performed an air compression test himself and told the applicant that the test showed no windshield leaks. For some reason Royal City Auto allowed the respondent to perform the test himself. It is undisputed that there was no mechanic present at Royal City Auto and no documentation of the testing.
15. Following this test, the parties took the Tracker to Perform-X and the same mechanic who performed the earlier test again tested the windshield. The parties agreed that the mechanic could not find a leak, as he had discovered earlier. The applicant says the test results were inconclusive. There was no documentation related to this test.
16. The parties returned to the respondent's shop and the respondent replaced the windshield at no cost. He says when he took off the windshield the seal was "absolutely 100% perfect". He does not specify how he determined it was "perfect". The applicant says if it was "perfect" the respondent would not have replaced it. There are no photographs or other documentation showing the condition of the seal.
17. The applicant says in the eight months since the respondent replaced the windshield the second time, she has had no electrical problems or leaks. The respondent did not challenge this evidence. The applicant argues that the leak happened soon after the windshield change. If it was another part of the car that was causing the leak, she says she would have had another electrical problem by now.

18. The respondent's September 29, 2018 invoice says the windshield replacement includes a six-month warranty on material manufacturing defects as well as "a lifetime workmanship warranty". He says he honours his warranties on all vehicles where he is at fault, but here he says he was not at fault for the electrical problems.
19. The parties provided no evidence of whether it rained between the windshield replacement and the electrical failure. However, I accept water had entered the Tracker from somewhere because Perform-X's invoice states the mechanic found water on the printed circuit board.
20. I put significant weight on the Perform-X invoice because it is the only documented independent air test. They are not a competitor and there is no evidence they had any reason to provide false information on the invoice. I find Perform-X's inability to detect the same seal leak on the second test does not show their first test was wrong or that the seal was not leaking.
21. Based on Perform-X test results, the presence of water, and the fact that the electrical failure occurred 9 days after the windshield replacement, I find it more likely than not that the damages were caused by a leak in the windshield seal. I find the respondent caused the leak by improperly installing the windshield and failing to ensure it was sealed.
22. I find the respondent must reimburse the applicant for damages caused by his improper windshield installation in the amount of \$679.42.
23. In accordance with the tribunal's rules, I find the applicant is also entitled to reimbursement of the \$125 she paid in tribunal fees. The applicant did not claim any dispute-related expenses.

ORDERS

24. Within 30 days of the date of this decision, I order the respondent to pay the applicant a total of \$813.25, broken down as follows:

- a. \$679.42 as reimbursement for the inspection, test and repairs performed on the applicant's Tracker,
 - b. \$8.83 in pre-judgment interest under the *Court Order Interest Act*, calculated from October 11, 2018, the date of the invoice, and
 - c. \$125 in tribunal fees.
25. The applicant is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.
26. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
27. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Trisha Apland, Tribunal Member