



Civil Resolution Tribunal

Date Issued: July 19, 2019

File: SC-2018-009479

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Grant v. ICBC*, 2019 BCCRT 881

BETWEEN:

Katlin Grant

APPLICANT

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This is a summary decision about whether the Civil Resolution Tribunal (tribunal) should refuse to resolve this dispute under section 11(1)(a)(i) of the *Civil Resolution Tribunal Act* (Act).

2. Section 11(1)(a)(i) of the Act says the tribunal may refuse to resolve a dispute if it considers that the dispute would be more appropriate for another legally binding process or dispute resolution process.
3. For the reasons set out below, I refuse to resolve this dispute.
4. Only the evidence and submissions relevant to this decision are referenced below. This is not a final decision as to the substance of the merits of the dispute.
5. The applicant, Katlin Grant, is represented by Marc Scheirer, legal counsel. The respondent insurer, Insurance Corporation of British Columbia (ICBC), is presented by Rory McMullan, legal counsel.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the tribunal. The tribunal has jurisdiction over small claims brought under section 118 of the 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.
7. Under section 61 of the Act, the tribunal may make any order or give any direction in relation to a tribunal proceeding it thinks necessary to achieve the objects of the tribunal in accordance with its mandate. In particular, the tribunal may make such an order on its own initiative, on request by a party, or on recommendation by a case manager.

ISSUE

8. The issue is whether I should refuse to resolve this dispute.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. This dispute is about coverage under a contract of insurance. The applicant, Katlin Grant, was the driver and registered owner of a vehicle that was involved in an accident on January 7, 2017. The respondent insurer, ICBC, concluded Mr. Grant was in breach of his insurance contract by misrepresenting the principal operator on his insurance policy. As a result, ICBC determined Mr. Grant was not entitled to the replacement value of the vehicle that was written off during the accident.
11. Mr. Grant implicitly seeks a finding that he did not breach his insurance policy, and seeks \$3,000 in compensation for the replacement value of his vehicle.
12. During the course of this dispute, the other driver involved in the January 17, 2017 accident started an action in the British Columbia Supreme Court (BCSC) for personal injury damages. Liability is contested by both Mr. Grant and the other driver. The other driver is not a party to this tribunal dispute.
13. In his reply submissions, Mr. Grant requested that this dispute be joined with the BCSC action to avoid conflicting decisions. As the issue was only brought up in reply, I invited both parties to provide additional submissions about whether the tribunal should refuse to resolve this dispute.
14. Mr. Grant says the issues in the dispute before me overlap with the issues in the BCSC action. Namely, that in order to determine whether Mr. Grant is entitled to reimbursement of the replacement value of his vehicle, I will need to determine who was liable for the accident, and whether Mr. Grant is entitled to coverage under his contract of insurance. ICBC says that it is not a party to the BCSC action, and that the dispute before me is solely one of breach of contract.

15. I agree with Mr. Grant that in the circumstances, if I were to find he was not the principal operator, I would likely then need to make a liability assessment between Mr. Grant and the other driver. Yet, the BCSC action would also require a similar liability assessment. This creates a potential for conflicting decisions about liability between the tribunal and the court. The accident occurred before April 1, 2019, so the tribunal does not have jurisdiction over the other driver's claim for personal injury damages, as I infer it is well over the tribunal's small claims \$5,000 limit. The only recourse for the other driver is through the court.
16. Additionally, the potential monetary impact of the decision flowing from this tribunal dispute is likely above the tribunal's \$5,000 limit. I say this because in the event I find Mr. Grant did breach his insurance in failing to disclose he was the principal operator, he would forfeit his right to insurance coverage for the accident. This means that Mr. Grant would be personally liable for any damages assessed by the court in the BCSC action, which would likely be in excess of \$5,000. Therefore, any findings made in this dispute would have overlapping implications in the BCSC action.
17. As noted above, section 11(1)(a)(i) of the Act provides that the tribunal may refuse to resolve a claim or dispute if it considers the claim or dispute would be more appropriate for another legally binding process or dispute resolution process. Given the potential for conflicting decisions on liability, the limited jurisdiction of the tribunal for motor vehicle accidents before April 1, 2019, and the overlapping findings with the BCSC action, I find it is most appropriate to refuse to resolve Mr. Grant's claim against ICBC. If there are claims that are not determined through the court process, it is open to Mr. Grant to file a new dispute with the tribunal.
18. For these reasons, I refuse to resolve Mr. Grant's claims against ICBC, pursuant to section 11(1)(a)(i) of the Act.
19. In the particular circumstances of this dispute, I find it is appropriate to refund Mr. Grant's tribunal fees.

ORDER

20. Pursuant to section 11(1)(a)(i) of the Act, I refuse to resolve this dispute.

Andrea Ritchie, Vice Chair