



Civil Resolution Tribunal

Date Issued: July 23, 2019

File: SC-2018-007038

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Verge v. Randy Folk (dba Krankin Vintage Restoration)*, 2019 BCCRT 896

B E T W E E N :

Vincent Verge

APPLICANT

A N D :

Randy Folk (Doing Business As Krankin Vintage Restoration)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. This dispute is about the proceeds of the sale of a 1990 GMC truck.
2. The applicant, Vincent Verge, left his truck with the respondent, Randy Folk (Doing Business As Krankin Vintage Restoration), to sell on his behalf for \$1,500.

3. After the truck sold, the respondent paid the applicant \$500 of the agreed \$1,500 selling price. The applicant claims the remaining \$1,000 in this dispute.
4. The respondent says he is not able to pay the outstanding \$1,000 due to his financial problems.
5. The parties are self-represented.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.
8. 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.
9. 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

10. The issue in this dispute is whether the respondent owes the applicant \$1,000 from the sale of the truck.

EVIDENCE AND ANALYSIS

11. In a civil claim such as this, the burden of proof is on the applicant to prove his claims on a balance of probabilities. Although I have reviewed all of the parties' evidence and submissions, I have only referenced what I find necessary to give context to my decision.
12. On September 7, 2016, the parties entered into a written agreement that the respondent would sell the applicant's truck for \$1,500.
13. The respondent says the truck's motor seized shortly after purchase and the truck was not drivable. I infer from the word "purchase" he means from the date he took possession of the truck. He does not say whether he incurred any costs to repair the truck prior to sale. As no claim is made relating to this, I find nothing turns on the condition of the truck.
14. The applicant says the respondent sold the truck in May 2017. The respondent says the truck sat on his business lot until he sold it in the summer of 2017. The respondent provided no proof of sale that shows the date of sale to a third party or how much he sold it for. Since the amount owing is not in dispute, I infer the respondent either sold the truck for \$1,500 or agreed to pay the applicant \$1,500 irrespective of the final selling price.
15. After the truck sold, the respondent paid the applicant \$400 on July 29, 2017 and \$100 on October 7, 2017. This left an outstanding payment of \$1,000, the amount claimed in this dispute.

16. The respondent says the applicant told him he could use the proceeds from the sale to pay some of his overdue bills. The applicant denies making any such agreement. In any event, the respondent admits that he still owes the applicant \$1,000 for the truck.
17. The respondent says that he cannot afford to pay the applicant due to the large amount of money he owes the Canada Revenue Agency and others. He says he is in financial distress.
18. The facts are largely uncontested. I find the respondent entered into an agreement with the applicant to pay him \$1,500 from the sale of the truck. The respondent only paid \$500. Notwithstanding the respondent's ability to pay, I find the respondent owes the applicant the money from the truck sale. I find the respondent must pay the applicant the remaining \$1,000.
19. I also find the respondent must pay \$26.97 in interest calculated under the *Court Order Interest Act*. Since I do not have the date of sale, I have calculated interest from July 29, 2017, the date of the first payment. I find the respondent had sold the truck by at least that date and payment was then due.
20. Under the tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. The respondent says he cannot pay. I find this is not enough reason to order something other than the general rule. I find the applicant is entitled to reimbursement of \$125 in tribunal fees and \$14.53 in dispute-related expenses incurred in serving the respondent.

ORDERS

21. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$1,166.50, broken down as follows:
 - a. \$1,000.00 as payment for the truck,

- b. \$26.97 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$139.53, for \$125.00 in tribunal fees and \$14.53 for dispute-related expenses.
22. The applicant is entitled to post-judgment interest, as applicable under the *Court Order Interest Act*.
23. 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.
24. 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