



Civil Resolution Tribunal

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File: SC-2019-003012

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mohammadkhani et al v. 0874378 B.C. Ltd.*, 2019 BCCRT 1290

B E T W E E N :

YASAMAN MOHAMMADKHANI and HAMIDREZA AMINI

APPLICANTS

A N D :

0874378 B.C. LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a dispute about a damaged phone. The applicants, Yasaman Mohammadkhani and Hamidreza Amini, brought their phone to the respondent, 0874378 B.C. Ltd., on 2 separate occasions to repair the phone's Liquid Crystal Display (LCD) screen. The applicants say the respondent damaged the phone

during the second repair. They want the respondent to pay them a total of \$1,121.68: \$100.80 for the cost of replacing the phone's LCD screen, \$245.28 for the cost of Apple Store's repair and replacement of the LCD screen, \$50 in travel costs related to the dispute, \$580 for the cost of replacing the phone at the time of repair, and \$145.60 as reimbursement for the cost of the first repair.

2. The respondent says it did not cause any damage to the applicants' phone and that the applicants must have damaged the phone's circuit board by dropping it after the respondent completed the repairs.
3. The applicants are both self-represented and the respondent is represented by an employee or principal.

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* (CRTA). 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. Some of the evidence in this dispute amounts to a "they said, they said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanor in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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 the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and 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, where permitted under section 118 of the CRTA:
 - 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 whether the respondent is required to pay the applicants \$1,121.68 for allegedly damaging their phone.

EVIDENCE AND ANALYSIS

9. In a civil claim like this one, the applicants must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicants' position is correct.
10. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision.
11. As for the respondent's first repair, it is undisputed that at some point the respondent repaired the LCD screen on the applicants' phone for over \$120. The applicants say when they turned on the phone after the repair, they noticed the LCD

screen lighting was different than before the repair and the LCD quality was “cheap.” However, they say the cost of replacing the original LCD screen would have been \$180, and because they paid the respondent a discounted price for the repair they were satisfied with the result.

12. The applicants say that a few weeks later their phone’s LCD screen cracked, and they brought it back to the respondent to repair it because the respondent had promised them a discount on future repairs. They say when they brought the phone to the respondent for the second repair it was in perfect working condition aside from the broken LCD screen. The respondent denies previously offering the applicants a discount but admits to giving them a discount when they came to the store for the second repair.
13. The applicants say when they picked up the phone from the respondent’s store after the second repair the LCD screen appeared to be fine, but they did not turn the phone on. They say when they turned the phone on after leaving the respondent’s store, the screen went black after a few seconds, so they returned to the respondent’s store to report the problem. They say the respondent’s store took the phone back and told them it would repair it. The applicants say the respondent phoned them the following day to tell them the phone was repaired and ready for pick up. The applicants say they returned to the respondent’s store and when they turned on the phone the problem did not appear to be repaired, and the LCD screen still went dark after a few seconds. The applicants say the respondent damaged the phone during its repair work.
14. The respondent says the applicants came into its store for the second repair with a working phone, and it returned a working phone to them after the repair. It says it repaired the applicants’ phone the second time “perfectly.” It says the applicants took the phone but returned approximately 1 hour later complaining that it did not work properly. The respondent says it then tested 3 different new LCDs with the applicants’ phone but none of them worked. The respondent says there may have been a problem with the phone’s software update, because a lot of its customers

experienced a similar problem when they tried to update the software on their phones. The respondent says the only other explanation is that the applicants dropped the phone causing a crack in the circuit board. The respondent provided no evidence to support either explanation for what was wrong with the phone. The respondent says it offered the applicants a refund and offered to change the phone's circuit board for \$250, which they refused.

15. The applicants say when they asked to see the alleged crack in the circuit board the respondent said it could not show it to them. The respondent does not specifically dispute this.
16. The applicants then took the phone to the Apple Store. The only documentary evidence the applicants submitted in this dispute is an April 11, 2019 service record from the Apple Store for an iPhone 7 Plus purchased on December 12, 2017. The document says the applicants had the phone's display replaced by a third party and were experiencing issues with the phone. It says that when the applicants first brought the phone into the Apple Store the screen was fading when attempting to unlock it, and the store "ran mobile resource inspector and multi touch diagnostics." It says the third-party repair to the display appeared to be causing issues to the phone that were not present before that repair. It says the display quality was "not great" and that there was a "yellowish tint constantly showing." It also says the display was not flush with the enclosure and that there were minor scuffs and scratches to the enclosure. It says there were no signs of liquid damage.
17. The Apple Store service record includes an estimate of \$245.28 to repair the phone. The applicants say they decided to repair the phone at the Apple Store on April 11, 2019, but they did not provide a receipt or other evidence that they paid the Apple Store to have the phone repaired that day.
18. The respondent says the Apple Store always blames third parties for damaging their phones but provided no evidence to support this assertion. The only evidence the respondent submitted is an undated video which it says shows the LCD screen it installed on the applicants' phone after the first repair, but on a different phone.

While the respondent does not specify when it took the video, based on its description I find it must have taken it after the second repair once it had removed the first LCD screen it installed on the phone. The respondent says this video proves that the LCD screen works perfectly and has no yellow marks, contrary to the Apple Store report, and therefore the problem with the applicants' phone must be the circuit board. However, the evidence before me indicates that the respondent replaced the LCD for a second time, and it was after that second replacement that the applicants took the phone to the Apple Store. Therefore, I find the video showing a different LCD screen than the one the Apple Store inspected is unhelpful in determining the problem with the applicants' phone. I also have no way of confirming that the LCD screen on the phone in the video is in fact the same LCD screen the respondent initially installed on the applicants' phone. I also find that even if the LCD screen in the video worked properly, it does not necessarily mean there is a problem with the applicants' phone's circuit board.

19. On balance, I prefer the applicants' version of events and I find the respondent damaged their phone during its second repair. I say this because the applicants' claims are supported by the Apple Store service record, and their recounting of events is internally consistent. On the other hand, the respondent says it repaired the applicants' phone "perfectly," but also says there is a problem with the phone's circuit board which it did not cause. The respondent appears to allege that the phone's damage occurred in the 1-hour period between when the applicants picked it up and returned to the store, but there is no evidence the applicants dropped the phone or otherwise physically damaged it during that time. There is also no documentary or other evidence to support the respondent's assertions that the phone's circuit board was damaged or that it encountered a problem when updating its software.
20. For these reasons, I find the applicants have established on a balance of probabilities that the respondent damaged their phone. However, aside from the Apple Store service record with the \$245.28 estimate to repair their phone, they submitted no other evidence to support their monetary claims. I find that having the

Apple Store repair their phone put the applicants in the position they would have been in if the respondent had properly repaired their phone. While the applicants did not provide direct evidence that they paid the Apple Store to repair their phone, on balance I find their explanation of the timing is reasonable given the date of the service record and the fact that they say they upgraded the phone a month later. Therefore, I accept that the applicants paid the Apple Store \$245.28 on April 11, 2019, and I find the respondent must reimburse the applicants \$245.28.

21. I find the applicants have not established that they are entitled to any other amounts claimed. In particular, I find they are not entitled to the value of a replacement phone when the evidence is that their phone was repaired. They are also not entitled to reimbursement of the amounts they paid the respondent for LCD replacements because they submitted no evidence of the amounts paid and they are already being compensated for the cost of repairing the phone. I also find the applicants have submitted no evidence to support their claim for travel costs. I dismiss all of these claims.
22. The *Court Order Interest Act* applies to the tribunal. The applicants are entitled to pre-judgment interest on the \$245.28 owing from April 11, 2019, the date they repaired the phone, to the date of this decision, for a total of \$2.87.
23. Under section 49 of the CRTA and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. Since the applicants were only partially successful, I find they are entitled to reimbursement of half their tribunal fees, which amount to \$62.50. They did not claim any dispute-related expenses.

ORDERS

24. Within 14 days of the date of this order, I order the respondent to pay the applicants a total of \$310.65, broken down as follows:
- a. \$245.28 for the cost of repairing the phone,
 - b. \$2.87 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 tribunal fees.
25. The applicants are entitled to post-judgment interest, as applicable.
26. The remainder of the applicants' claims are dismissed.
27. Under section 48 of the CRTA, 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.
28. Under section 58.1 of the CRTA, 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.

Sarah Orr, Tribunal Member