



# Civil Resolution Tribunal

Date Issued: February 7, 2020

File: SC-2019-007472

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Brodie v. ICBC*, 2020 BCCRT 155

BETWEEN:

BLAINE JAMES BRODIE

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This is a small claims dispute about a motor vehicle accident that occurred on April 19, 2017. The collision occurred between KT and MF, who are not parties to this dispute. At the time of the collision, the vehicle driven by KT was owned by the

applicant, Blaine James Brodie. It is undisputed the applicant's vehicle was uninsured at the time of the collision.

2. The respondent insurer, Insurance Corporation of British Columbia (ICBC), internally determined KT was responsible for the accident. As the vehicle's registered owner, ICBC held the applicant was joint and severally liable. As a result of the accident, ICBC paid MF general damages of \$15,000. Because the applicant's vehicle was not insured at the time, ICBC required the applicant and KT to reimburse it for the money paid to MF, and set up payment plans with both KT and the applicant.
3. The applicant says he is not responsible for the accident and asks for an accounting of all money paid and that all accident-related money he paid be reimbursed. The applicant also seeks \$370 for "inconvenience" and \$3,430 in punitive damages.
4. The applicant is self-represented. The respondent is represented by an employee.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. 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.

7. 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.
8. In resolving this dispute the tribunal may make one or more of the following orders, where permitted by 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.
9. Under section 61 of the CRTA, 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.

## **ISSUES**

10. The issues in this dispute are:
  - a. Is the applicant responsible for the accident and accident-related damages and, if not, what is the appropriate remedy?
  - b. Is the applicant entitled to reimbursement for “inconvenience” expenses?
  - c. Is the applicant entitled to punitive damages?

## **EVIDENCE AND ANALYSIS**

11. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. While I have read all of the parties’ evidence and submissions, I have

only addressed the evidence and arguments to the extent necessary to explain my decision.

***Is the applicant responsible for the accident and accident-related damages?***

12. As noted above, ICBC held the applicant, as owner of the uninsured vehicle, joint and severally liable for the April 19, 2017 accident. The applicant says he is not responsible as he was not the vehicle's beneficial owner. He seeks an order that ICBC provide an accounting of all payments made by him towards repayment of MF's claim, and reimbursement of that amount. In response, ICBC provided full statements of account, but denies the applicant is entitled to a refund. According to the statements of account, the applicant has paid \$1,950 towards the debt, and KT has paid \$1,843. It is undisputed the total unpaid amount outstanding is \$11,207.
13. The details of how the accident occurred are not in evidence, but neither party disputes that KT was solely responsible as between the drivers.
14. The question then is whether the applicant is also liable, as the vehicle's registered owner. If I find the applicant is jointly and severally liable for the accident, it follows that he will be held responsible for up to the full amount of damages paid by ICBC to MF. If I find he is not responsible, then the applicant is relieved of potentially \$11,207 in addition to the \$1,950 he has already paid. ICBC says the tribunal does not have jurisdiction over this claim, as the total value exceeds the tribunal's small claims \$5,000 limit. I agree.
15. In the circumstances, I find I must refuse to resolve this claim. Section 10 of the CRTA says that the tribunal must refuse to resolve a claim that it considers not within the tribunal's jurisdiction. Here, although the applicant seeks reimbursement of the money he has paid so far (\$1,950), which is within the tribunal's small claims monetary limit, as discussed above I find the actual value of the claim is \$13,157 (\$15,000 minus \$1,843 paid by KT). Therefore, I find the claim amount exceeds the tribunal's monetary limit, and the tribunal does not have jurisdiction to hear it.
16. Additionally, I find the applicant essentially seeks a declaration that is he not liable and therefore does not owe ICBC any money. The tribunal does not have

jurisdiction to award declaratory relief. The applicant also asks for an order that ICBC not send him any further reimbursement demands related to the April 2017 accident. An order for someone to do or stop doing something is known as “injunctive relief” and is outside the tribunal’s small claims jurisdiction, except where permitted by section 118 of the CRTA. There is no relevant CRTA provision here that would permit me to grant the injunctive relief sought by the applicant.

17. Given all of the above, I refuse to resolve the applicant’s claim for an order that he be reimbursed for money paid under MF’s claim, and I also refuse to resolve his claim for an order that ICBC stop demanding payment under that claim.
18. Further to section 10 of the CRTA, a dispute that involves one or more issues that are within the tribunal’s jurisdiction and one or more that are outside its jurisdiction may be amended to remove those issues that are outside its jurisdiction. Therefore, I will consider the applicant’s other claims.

***Is the applicant entitled to reimbursement for “inconvenience” expenses?***

19. Initially, the applicant claimed \$370 for “inconveniences” including time taken off work, parking and taxi costs, and a refund for cancelled insurance. In his submissions, the applicant acknowledged ICBC refunded him \$61 for his cancelled insurance and withdrew his claim for parking and taxi costs, which he estimated at \$40 and \$80, respectively. That leaves a claim of \$189 for time taken off work.
20. The applicant says that as a result of ICBC’s fault determination for the April 2017 accident, he had to seek waivers from the insurer when renewing his insurance. He said this was only able to be completed during regular business hours, 9 to 5, Monday to Friday. He said this required him to take time off work on April 18, 2018, November 9, 2018, December 3, 2018, April 24, 2019, and May 3, 2019.
21. Even if I had found the applicant should not be held responsible to pay for the accident-related damages, I would not have awarded inconvenience damages. I say this because the applicant did not provide any evidence in support of this claim, such as his regular hours of work, the amount of time he was required to take off, or

his salary. On balance, I find the applicant has not proven he is entitled to reimbursement for any “inconvenience” expenses.

***Is the applicant entitled to punitive damages?***

22. The applicant claims \$3,430 in punitive damages. He says he is entitled to these damages because ICBC’s conduct has been reprehensible. Specifically, he says his phone calls to ICBC went unanswered, that his insurance cancellation refund was withheld without authority, and that ICBC improperly held him liable for the April 2017 accident.
23. The court has held that the purpose of punitive damages is to punish extreme conduct worthy of condemnation, and can only be awarded to punish harsh, vindictive, reprehensible and malicious behaviour (see: *Vorvis v. ICBC*, [1989] 1 SCR 1085). Given this, awards of punitive damages are rare.
24. While I acknowledge the applicant is unhappy with ICBC’s liability determination, there is no evidence its determination was made with malice. Additionally, although the applicant feels his contact attempts went unanswered, the records he produced in evidence indicate ICBC responded to his enquiries. As noted above, ICBC has refunded the applicant’s cancelled insurance premium. I find there is no evidence of malicious or reprehensible conduct by ICBC. I dismiss the applicant’s claim for punitive damages.
25. Under section 49 of the CRTA, and the tribunal rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As the applicant was not successful, I find that he is not entitled to reimbursement of his paid tribunal fees. Neither party claimed dispute-related expenses.

## **ORDERS**

26. Under section 10(1) of the CRTA, I refuse to resolve the applicant's claims about liability for the April 19, 2017 motor vehicle accident.
27. The applicant's remaining claims for inconvenience damages and punitive damages are dismissed.

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Andrea Ritchie, Vice Chair