



# Civil Resolution Tribunal

Date Issued: February 19, 2020

File: SC-2019-005339

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Liang v. ICBC*, 2020 BCCRT 192

BETWEEN:

YU YAN LIANG

**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 small claims dispute is about damage to a vehicle involved in a collision.
2. The applicant, Yu Yan Liang, says her vehicle was damaged in a motor vehicle accident and that, even though it has since been repaired, it is now worth less than

it would have been. She seeks \$4,500, which she says is the amount of accelerated depreciation of the vehicle.

3. The respondent, Insurance Corporation of British Columbia (ICBC), says it is not a proper party to this dispute, and that Ms. Liang should have claimed against WSPC and ML, the third parties involved in the collision. In any event, ICBC says Ms. Liang's vehicle has not depreciated any more than normal, and that she has not experienced a loss.
4. Ms. Liang is self-represented. ICBC is represented by an adjuster.

## **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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is an issue.
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.

## **ISSUE**

9. The issue in this dispute is whether ICBC is responsible to pay the applicant \$4,500 for alleged accelerated depreciation of her vehicle.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant Ms. Liang bears the burden of proving her claim 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.
11. Ms. Liang's vehicle, a 2012 Mercedes-Benz GLK350 (Mercedes), was involved in a motor vehicle collision on July 22, 2017, while being driven by the Ms. Liang's son, KL. It is undisputed that KL was not held responsible for the accident, and that the Mercedes was repaired for a total cost of \$17,258.37.
12. Ms. Liang says the value of the repairs has caused her Mercedes to be worth less than it otherwise would have been without the accident, and so she seeks compensation for accelerated depreciation of the vehicle.

13. Accelerated depreciation is the loss of market value of a motor vehicle, because it was damaged, regardless of the fact the damage was repaired (see: *Squire v. ICBC*, 1990 CanLII 711 (BCCA)).
14. As noted above, ICBC says it is not a proper respondent to Ms. Liang's claim. ICBC submits that WSPC, as owner of the other vehicle involved in the collision, and ML, as driver of that vehicle, are the proper respondents. I agree. As stated in *Squire*, claims for accelerated depreciation, such as this one, have been advanced successfully in tort against the person whose fault caused the damage. In this case, for unknown reasons, Ms. Liang chose not to pursue her claim for accelerated depreciation against WSPC or ML, the parties responsible for the damage to her vehicle.
15. I say this because Ms. Liang elected not to name WSPC or ML despite being informed by ICBC that WSPC and ML were the proper respondents, and despite being informed by the tribunal that by failing to also name the person who caused the accident, her claim would be unlikely to succeed. Additionally, I note the evidence shows Ms. Liang knew who the other owner and driver were, given that her son named them both in his personal injury claim.
16. Ms. Liang's claim is in tort. I find Ms. Liang's claim should have been made against WSPC and ML. I have considered whether it would be appropriate to allow Ms. Liang the opportunity to add them as respondents. However, as Ms. Liang filed her application with the tribunal at the 2-year statutory limitation period deadline, I find she is out of time to add them, and it would be unfair to deprive WSPC and ML of a limitation defence. I say this keeping in mind that Ms. Liang knew that WSPC and ML were the parties involved in the collision well before she filed this dispute.
17. Further, Ms. Liang has not alleged that ICBC is responsible for the claimed accelerated depreciation under her contract of insurance, nor has she produced any evidence that would support such a claim, such as a copy of her insurance policy. In the circumstances, I find Ms. Liang's claim against ICBC, the only named respondent in this dispute, must be dismissed.

18. 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 Ms. Liang was not successful, I find that she is not entitled to reimbursement of her paid tribunal fees. Neither party claimed dispute-related expenses.

## **ORDER**

19. I order Ms. Liang's claims, and this dispute, dismissed.

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Andrea Ritchie, Vice Chair