



Civil Resolution Tribunal

Date Issued: February 19, 2020

File: SC-2019-008545

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ahlroos v. Mason Sewing Machine (2016) Ltd.*, 2020 BCCRT 195

B E T W E E N :

MONICA AHLROOS

APPLICANT

A N D :

MASON SEWING MACHINE (2016) LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. This dispute is about a sewing machine.
2. The applicant Monica Ahlroos says she took her imagine baby lock Serger (BLEIAT-2) Serial # A03010102 (sewing machine) to the respondent Mason Sewing Machine (2016) Ltd. to be serviced.

3. The applicant says that when she went to pick up her sewing machine, the respondent tried to give her a different machine. The applicant says the machine offered was a different colour, and older than hers. The applicant says she raised her concerns immediately. The applicant claims for the return of her sewing machine or \$2,000 to buy another.
4. The respondent says it returned the applicant's sewing machine to her after servicing it. The respondent denies any wrongdoing and asks that I dismiss this dispute.
5. The applicant is self-represented. The respondent is represented by business contact MR.

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 (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.
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. Where permitted by section 118 of the CRTA, in resolving this dispute the tribunal may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

ISSUE

10. The issue in this dispute is whether the respondent returned the applicant's sewing machine after she dropped it off for service. If not, I must consider what remedy is appropriate.

EVIDENCE AND ANALYSIS

11. Generally, in a civil claim, the applicant bears the burden of proof on a balance of probabilities. However, where the issue between the parties involves bailment, the burden shifts to the respondent, as explained below. I have reviewed the evidence and submissions but refer to them only as I find necessary to explain my decision.
12. In May 2010, the applicant purchased the sewing machine from the respondent's shop, with some accessories, for \$1,693.11.
13. On October 1, 2019, the applicant took the sewing machine to the respondent's shop for service. The applicant says she asked for only an "oil change". I find, based on the October 1, 2019 Work Order/Claim Check, that the applicant requested a "complete service" for \$119.00.
14. The parties disagree about the appearance and condition of the sewing machine when it was dropped off for service.
15. The applicant describes the sewing machine as "lightly used". At the same time, the applicant says the sewing machine was in "brand new condition", and "pristine" with no fading of the exterior machine cover. The applicant says she kept the machine under a custom fabric dust cover when it was not in use. The applicant says the sewing machine was white. However, the applicant did not file any photographs of the sewing machine proving its condition.

16. The respondent says that when the applicant dropped off the sewing machine, it had faded outer machine covers consistent with its age. Based on photographs filed in evidence by the respondent and given that the sewing machine was purchased in 2010 I find that, even if well-kept, it was not brand new and would likely appear somewhat faded.
17. On October 11, 2019, the applicant says she went to the respondent's shop to pick up the sewing machine.
18. The applicant says that the respondent offered her a different sewing machine at pick up. The applicant says this different machine had an "extremely faded multicolor cover" and was an older model Serger. The applicant did not explain the different model's features or provide a model number to distinguish it from her sewing machine. The applicant also did not file photographic evidence of this allegedly different machine, or a different color of fabric or machine cover.
19. The respondent says it returned the applicant's sewing machine. The respondent filed a series of photographs of a sewing machine with fading and yellowing of its white cover, bearing the labels "imagine" and "baby lock". The fading and yellowing is more pronounced at the back of the machine. The respondent suggests this pattern of fading is consistent with use near a window.
20. The applicant agrees that the sewing machine she was offered at pick up had the same serial number as the one she dropped off. However, the applicant implies that the respondent changed the machine's cover but kept the serial number the same.
21. The photograph of the back of the machine reveals the serial number A0310102. Based on this photograph, I find that no one has tampered with the serial number placard on the sewing machine.
22. The only evidence that the cover was somehow changed is the applicant's assertion that it occurred. For example, there is no photograph before me showing a different colour of cover either before or at the time that the applicant dropped of the sewing

machine for service. I also find that no one changed the sewing machine's outer cover.

23. The law of bailment is about the obligations on one party to safeguard another party's possessions. The bailor is a person who gives the goods or possessions and the bailee is the person who holds or stores them. The respondent was known in law as a voluntary bailee for reward. A voluntary bailee for reward is someone who agrees to receive the goods as part of a transaction in which the bailee gets paid. Here, the bailor (the applicant) left the sewing machine with the bailee (the respondent), which received the sewing machine for the purpose of performing maintenance service on it for payment.
24. The standard of care for a bailee for reward is what care a reasonable person would take of the belongings. If a thing entrusted to a bailee for reward is lost, then the burden of proof is on the bailee to show the loss was not a result of their failure to take the care a reasonable person would take of the possessions.
25. I find that the respondent took reasonable care of the sewing machine while the respondent was the bailee.
26. The applicant failed to file any evidence showing that the respondent returned a different machine to her. The respondent filed photographs showing that the sewing machine it possessed was the same sewing machine the applicant dropped off for service. The respondent prepared an appropriate Work Order/Claim Check, and I find that the sewing machine was returned to the applicant as promised.
27. In the circumstances I do not find the respondent liable in bailment.
28. 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. The respondent did not pay tribunal fees or claim dispute-related expenses, so I make no order for them.

ORDER

29. I dismiss the applicant's claims and this dispute.

Julie K. Gibson, Tribunal Member