



Civil Resolution Tribunal

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File: SC-2019-010204

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lambright v. 1121954 B.C. Ltd. dba Jiffy Lube*, 2020
BCCRT 409

BETWEEN:

CINDY LAMBRIGHT

APPLICANT

AND:

1121954 B.C. LTD. DBA JIFFY LUBE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about damage from an engine oil leak. The applicant, Cindy Lambright, claims that her vehicle was damaged when they changed her engine oil. The applicant requests \$1,340.37 in damages.

2. The respondent is 1121954 B.C. Ltd. dba Jiffy Lube, an oil lubrication business. The respondent says they changed the applicant's oil properly and they deny damaging the her vehicle. The respondent also says the oil leak came from a failure of the drain valve which they say they did not touch.
3. The applicant is self-represented. The respondent is represented by a business representative.

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, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
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. 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.

ISSUES

8. The issues in this dispute are:
 - a. Was the respondent negligent when they performed the applicant's engine oil change, and if so, what is the appropriate remedy?
 - b. Did the respondent breach their warranty of service when they changed the applicant's engine oil, and if so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove their case on the balance of probabilities. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.
10. The parties agree with the following facts.
 - a. The applicant took her 2007 Volkswagen GTI vehicle (the vehicle) to the respondent's oil lubrication business in Victoria for an oil change on October 24, 2019.
 - b. On October 26, 2019, the applicant telephoned the respondent and advised them that she had pulled the vehicle over because the oil pressure sensor was giving a warning.
 - c. On October 28, 2019, the applicant gave the respondent an invoice for \$504.98 from AA, a mechanic business in Port Alberni, to tow the vehicle and replace the oil filter housing.

11. The respondent states that the vehicle's check engine light was on when the applicant brought the vehicle for an oil change on October 24, 2019. The respondent noted this on their invoice.
12. The respondent says they checked the engine diagnostic codes for the vehicle and it showed 6 to 8 engine fault codes, all relating to the knock sensor. The respondent says they showed the diagnostic codes to the applicant and she took a photograph. The respondent says they told the applicant to have the vehicle checked by a mechanic, especially if the check engine light came back on.
13. The applicant says that she travelled to CV, a vehicle dealership in Vancouver, to have the vehicle inspected after AA's replacement of the oil filter housing. The respondent says the applicant went to CV for unrelated service of a pre-existing mechanical issue.
14. CV's invoice says they performed a 6-month service check on October 31, 2019. During this service, the invoice says that CV checked the engine. The invoice did not report any engine damage related to an oil leak.
15. The applicant provided a receipt for \$337.30 for a hotel stay in Burnaby from October 30, 2019 to November 1, 2019 to have her vehicle serviced at CV.

Negligence

16. To prove negligence, the applicant must show that the respondent owed the applicant a duty of care, the respondent breached the standard of care, the applicant sustained damage, and the damage was caused by the respondent's breach (*Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27, at par 33).
17. I accept that the respondent owed the applicant a duty of care to ensure that their engine oil service would not cause an oil leak.
18. The standard of care expected of the respondent is not perfection. Rather, the standard is what would be expected of an ordinary, reasonable, and prudent person

in the same circumstances. One must look at the particular facts of the case to determine whether the respondent acted reasonably.

19. For the reasons stated below, I find that the applicant has not proved it is more likely than not that the respondent breached the standard of care.
20. The applicant argues that the respondent was negligent because her vehicle had an oil leak two days after the respondent's oil change service. However, the applicant has not provided any evidence proving that the respondent breached the standard of care when they performed the oil service. Specifically, the applicant has not proved that the respondent performed the oil change service improperly.
21. I find expert opinion evidence is necessary in this case, because the subject matter is technical and outside the knowledge and experience of the ordinary person (see *Bergen v. Guliker*, 2015 BCCA 283).
20. An expert can explain the relevant standard of care and demonstrate how the conduct in the dispute fell below that standard. I find that expert evidence would be necessary in order for the applicant to prove her claims. Such evidence is required to determine whether or not the respondent exercised the care and skill of a reasonably competent oil lubrication servicer in accordance with the industry standards. The applicant failed to provide the necessary expert evidence about the applicable standard of care or any evidence that the respondent breached the relevant standard.
22. The respondent argues that they performed their oil change service properly and they pressure checked for oil leaks after they finished. The applicant has not provided any evidence disputing these submissions.
23. The applicant also argues that the respondent breached their standard of care by failing to warn the applicant that the drain valve on the oil canister could fail and cause an oil leak. However, I am not satisfied that the applicant has proved that the standard of care required such a warning.

24. The respondent says a drain valve failure can occur if the valve is used to drain oil during an oil change. The respondent says that they did not touch the drain valve during the oil change, given this risk. There is no evidence before me that the drain valve was susceptible to failure if it was not touched. In the absence of any evidence of risk of failure, I find that the applicant has not established that the respondent was required to warn the applicant of this risk by the standard of care.
25. In addition, I find that the applicant has not proved that the respondent's acts or omissions caused the oil leak.
26. The applicant states that AA was unable to find the source of the oil leak. However, the respondent states that AA said the oil leak was caused by a failure of the drain valve in the filter canister.
27. The applicant and the respondent have provided conflicting evidence of AA's observations after the oil leak. Since neither party examined the vehicle after the oil leak or provided a statement from AA, I find that neither party has provided compelling evidence to prove how this oil leak occurred. However, since the burden of proof is on the applicant, I find that the applicant has failed to prove that the respondent's acts or omissions caused the applicant's vehicle damage.
28. For the above reasons, I find that the applicant has failed to prove that the respondent was negligent.

Warranty

29. I also considered whether the respondent breached their service warranty to the applicant.
30. The respondent's invoice stated that the respondent "warrants all workmanship against failure for 7 days from the date of service." It is not disputed that the applicant's vehicle leaked oil two days after the respondent's oil change service.
31. A warranty is a promise to repair future damage. (See *Gallen v. Allstate Grain Co.*, 1984 CanLII 752 (BCCA).)

32. Any ambiguities in the terms used in the warranties should be interpreted against the party who drafted the contract (See, *Manulife Bank of Canada v. Conlin*, 1996 CanLII 182 (SCC); *Consolidated-Bathurst Export Ltd. v. Mutual Boiler and Machinery Insurance Co.*, 1979 CanLII 10 (SCC).)
33. Since the respondent's warranty is limited to its work, the applicant needs to prove that the oil leak was caused by the respondent's labour or service rather than a defective part. I am not satisfied that the applicant has proved this.
34. For the reasons stated above, I find that the applicant has failed to prove that the respondent's oil change service was inadequate. The applicant has not identified any conduct by the respondent which caused the oil leak.
35. On the other hand, the respondent argues that the oil leak was caused by a parts failure and not a service mistake. Specifically, the respondent claims that the oil leak occurred because the drain valve failed and the respondent claims that they did not touch this component during the oil change.
36. As stated above, since the respondent did not examine the vehicle after the leak, and in the absence of a statement from AA, I am not satisfied that respondent has proved that the oil leak was the result of a drain valve failure. However, the applicant has the burden of proving that the damage resulted from the respondent's labour or service and I find that the applicant has failed to do so.
37. Accordingly, I find that the applicant has failed to prove that the respondent breached their warranty of service.
38. Given my conclusions above, I find that the applicant has not proved it is more likely than not that the respondent is responsible for her vehicle's damage. I dismiss her claim.
39. As the applicant was unsuccessful in this dispute, I dismiss her claim for reimbursement of tribunal fees, in accordance with the tribunal's rules.

ORDER

40. I order the applicant's claims, and this dispute, dismissed.

Richard McAndrew, Tribunal Member