



Civil Resolution Tribunal

Date Issued: April 24, 2020

File: SC-2019-010702

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Today's Generation Ltd. v. Whistler Glacier Group Inc.*, 2020 BCCRT 450

BETWEEN:

TODAY'S GENERATION LTD.

APPLICANT

AND:

WHISTLER GLACIER GROUP INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about a refund for a cancelled return bus trip between Vancouver and Whistler, BC. The applicant, Today's Generation Ltd., says it cancelled the bus trip and requested a refund from the respondent, Whistler Glacier Group Inc., in

accordance with the respondent's refund policy that requires 48 hours' notice. The respondent's employee confirmed the refund would be given, but then the respondent never provided it. The applicant claims \$1,978 for the refund.

2. The respondent says it cannot identify the applicant in its records, though the respondent also says its computer system was hacked.
3. The applicant is represented by a principal, Chuan Jason Tseng Yu. The respondent is represented by its principal, Jamie Wilson.

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. Bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I find 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.

ISSUE

8. The issue in this dispute is whether the applicant is entitled to a \$1,978 refund for a cancelled bus trip.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove its claim, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
10. The applicant provided a “Confirmation” document showing a passenger LH booked a 36 passenger bus for a February 8, 2019 pick-up in Vancouver and drop-off in Whistler. Based on the emails in evidence, I accept LH was the applicant’s employee and that the applicant’s former business name was NTG Exchange LTD. The email evidence also shows the LH was booking the trip on NTG’s behalf, now the applicant.
11. The Confirmation shows LH’s credit card was charged \$989, leaving a zero balance owing. There is a similar, separate, Confirmation document for the return trip from Whistler to Vancouver, with pick-up on February 10, 2019. Again, it shows LH’s credit card was charged \$989, leaving a zero balance owing.
12. I find the evidence, including emails between LH and the respondent, overwhelmingly supports a conclusion the applicant made the 2 bookings on January 19, 2019 and requested cancellation and a refund on January 25, 2019, which was well over 72 hours’ notice.
13. Nothing turns on the fact that LH authorized the charges to a credit card that had another person, HC, as its cardholder. I accept the applicant’s evidence that HC was the applicant’s “program lead” and that LH was the program’s staff in charge of booking the trip. The applicant says HC was an additional cardholder on Mr. Yu’s credit card account, which I find is consistent with Mr. Yu’s current credit card statement the applicant submitted in evidence. I say this because the bus trip

bookings are clearly shown on the credit card statement, which also show there has been no corresponding refund. In any event, the respondent does not dispute it has failed to provide the requested refund.

14. The respondent says the applicant's claimed trips do not show in their system, and that they have a different person showing for the applicable trip number. However, the respondent also admits their computer system was hacked and their employees had changed. In the circumstances, I prefer the applicant's detailed evidence of the transaction.
15. So, I find the applicant's credit card was charged \$1,978 in total, which is the amount claimed in this dispute. It is undisputed the respondent has not given a refund, which is also consistent with the credit card statement in evidence.
16. There is no suggestion the applicant did not cancel in time. As noted, the respondent's submission is that its records do not show the bookings were the applicant's. I find the applicant gave well over 72 hours' notice.
17. In particular, the emails show LH cancelled the applicant's trip on January 25, 2019, and the respondent's then office manager AP responded on January 28, 2019, "Yes you will receive the \$1978.00 back", having earlier said on January 25 that the respondent has a 48-hour cancellation policy. While the respondent says AP only worked for it for 2 weeks, the fact remains that the respondent's own employee AP agreed the applicant was entitled to a full refund.
18. I note the Terms and Conditions set out on the Confirmation's 2nd page says that for a "single" bus or coach booking, a full refund will only apply if cancellations are received 72 hours before the pick-up date. However, the applicant also provided a screenshot from the respondent's website that simply says 48 hours' notice is required for a full refund, which is consistent with AP's email summarized above. Nothing turns on the difference, since the applicant provided more than 72 hours' cancellation notice.

19. Given my conclusion above, I find the applicant is entitled to a \$1,978 refund. The *Court Order Interest Act* (COIA) applies to the tribunal. I find the applicant is entitled to pre-judgment interest on the \$1,978, calculated from January 25, 2019, the date cancellation was requested. This equals \$48.19.
20. Under section 49 of the CRTA and tribunal rules, as the applicant was successful, I find the applicant is entitled to be reimbursed for \$125 in paid tribunal fees. No dispute-related expenses were claimed.

ORDERS

21. Within 21 days of this decision, I order the respondent to pay the applicant a total of \$2,151.19, broken down as follows:
 - a. \$1,978 in debt,
 - b. \$48.19 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in tribunal fees.
22. The applicant is entitled to post-judgment interest as applicable.
23. 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. The Minister of Public Safety and Solicitor General has issued Ministerial Order No. M086 under the *Emergency Program Act*, which says that tribunals may waive, extend or suspend a mandatory time period. The tribunal can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the tribunal will not have this ability. A party should contact the tribunal as soon as possible if they want to ask the tribunal to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.

24. 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.

Shelley Lopez, Vice Chair