



Civil Resolution Tribunal

Date Issued: May 8, 2020

File: SC-2019-007860

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Olympic Motors (WC) IV Corporation v. Wong*, 2020 BCCRT 507

B E T W E E N :

OLYMPIC MOTORS (WC) IV CORPORTATION

APPLICANT

A N D :

CHUNG NGOK BRUCE WONG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Butch Bagabuyo

INTRODUCTION

1. This dispute is about payment for a car purchase agreement.
2. The applicant, named as Olympic Motors (WC) IV Corporation, is a car dealership. The applicant sold a 2004 Honda Element to the respondent, Chung Ngok Bruce Wong. The car's purchase price was \$11,194.40. The respondent paid \$6,000 by

bank draft, leaving \$5,194.40 owing to be paid by credit card. By accident, instead of charging the respondent's credit card for \$5,194.40 as agreed, the applicant says it credited the respondent's credit card a total of \$10,194.40, but was later able to charge \$10,388.80, leaving a \$5,000 balance owing under the purchase agreement. The applicant says that due to its own error, the respondent's credit card was not charged for the balance. Instead, the applicant says the respondent's credit card ultimately received a net \$5,000 refund.

3. The respondent says that he already paid for the car in full. In addition to the applicant admittedly receiving the \$6,000 bank draft, the respondent says the applicant charged his credit card for \$5,194.40 for the balance. The respondent says he does not owe the applicant anything further.
4. The applicant is represented by its employee, BH. The respondent is self-represented.

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. In this dispute, 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 find that an oral hearing is not necessary, and I can fairly hear this dispute through written submissions.

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. 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

9. The issue in this dispute is whether the applicant has proved it accidentally credited the respondent's credit card by a net \$5,000.

EVIDENCE AND ANALYSIS

10. In a civil claim like this one, the applicant must prove its claim, on a balance of probabilities. While I have read and considered all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. These facts are undisputed:
 - a. The parties entered into a vehicle purchase contract.
 - b. On August 16, 2019, the respondent bought a 2004 Honda Element from the applicant for \$11,194.40.
 - c. The respondent paid the applicant \$6,000 with a bank draft, and the remaining \$5,194.40 balance was to be paid by credit card.

12. The applicant says that due to an error, the respondent’s credit card was initially not charged. Instead, it gave it a refund. It also says that the more it tried to correct the errors, the more it gave refunds to the respondent’s credit card.

13. In particular, the applicant says that it made the following credit card transactions:

Amount	Transaction Type	Date	Credit Card Number (Last 4 Digits)
\$4,000.00	Refund	August 16, 2019	6693
\$1,000.00	Refund	August 17, 2019	6693
\$5,194.40	Refund	August 17, 2019	3780
\$5,194.40	Credit Charge	August 19, 2019	6693
\$5,194.40	Credit Charge	August 20, 2019	6693

14. In summary, the applicant says that it charged the respondent’s credit card \$10,388.80 and it refunded \$10,194.40. The respondent previously paid \$6,000 with a bank draft so the applicant says the respondent still owes \$5,000.

15. So, based on these errors, the applicant says the respondent at that point owed \$15,388.80. The applicant says it was able to reverse some of the refunds by charging the respondent’s credit card for it. The applicant says the respondent cancelled his credit card. As such, the applicant was not able to charge the \$5,000 still owing for the car.

16. Except for the August 17th, 2019 transaction for \$5,194.40, I find the applicant’s evidence supports the various charges above as credit card charges or refunds.

17. In an August 19, 2019 email, the applicant informed the respondent that it charged his credit card number ending 6693 for \$5,194.40 to offset a credit card refund it made for \$5,194.40 on August 17, 2019 on his credit card number ending 3780. I note that one of the applicant’s transaction receipts shows that a refund for \$5,194.40 was made to credit card number ending 3780, but I find this transaction was never credited as a refund to the respondent’s credit card ending 3780.

18. The respondent submitted a bank statement for credit card number ending 3780 for the period July 29, 2019 to August 28, 2019. I find that the bank statement shows

that on August 20, 2019 the applicant charged the respondent's credit card ending 3780 for \$5,194.40.

19. Contrary to the applicant's August 19, 2019 email, I find that there is nothing in the respondent's credit card bank statement for the card ending 3780 that shows the applicant gave the respondent a \$5,194.50 refund on August 17th, 2019. I also find that the bank statement shows the applicant charged the respondent's credit card number ending 3780 for \$5,194.40 on August 20, 2019. The applicant may have attempted to refund the respondent's credit card ending 3780 for \$5,194.40 on August 17, 2019, but I find the evidence shows that transaction was never credited to the respondent as a refund. I also find that the respondent's credit card ending 3780 was charged for \$5,194.40 by the applicant on August 20, 2019.
20. The applicant submitted a "control document" that lists various amounts and corresponding dates, and that it is generally consistent with the applicant's version of events. Except the document is unclear because it does not show which transactions were refunds and which ones were charges to the respondent. As such, I find the document is not helpful and I put no weight on it.
21. On the evidence, I find that the respondent has shown that he paid the applicant the full \$11,194.40 price for the car. Specifically, I find the respondent's credit card ending 3780 was charged by the applicant for \$5,194.40, instead of being refunded that amount as claimed by the applicant. This payment was in addition to the \$6,000 bank draft that the respondent already undisputedly paid.
22. As mentioned at the outset, the applicant bears the burden of proving that it is more likely than not that its version is correct, and I find it has not done so. Thus, I find that the applicant's claims must be dismissed.
23. Under section 49 of the CRTA and tribunal rules, as the applicant was unsuccessful, I find it is not entitled to be reimbursed for tribunal fees or dispute-related expenses. The successful respondent did not pay any fees or claim expenses.

ORDER

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

Butch Bagabuyo, Tribunal Member