



# Civil Resolution Tribunal

Date Issued: May 27, 2020

File: SC-2019-007347

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Khan v. Zhong*, 2020 BCCRT 581

BETWEEN:

ZAHOOR KHAN

**APPLICANT**

AND:

JOHN ZHONG and BOWMA AUTO SERVICE (Doing Business As  
BOWMA AUTO SERVICE)

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about vehicle repairs.
2. The applicant, Zahoor Khan, says he paid the respondents, Bowma Auto Service (doing business as Bowma Auto Service) (Bowma) and John Zhong, to perform

repairs on his van. Mr. Khan says the respondents failed to adequately perform the repairs, and he ultimately had to have the issue diagnosed at a dealership. Mr. Khan seeks an \$800 refund, plus a \$155 diagnostic fee he paid to the dealership. The respondents say they merely installed a part brought to them by Mr. Khan, but advised him the used part would not solve his issues. They say Mr. Khan failed to take their advice, which resulted in the additional dealership expenses.

3. Mr. Khan is self-represented. The respondents are both represented by Mr. Zhong.

## **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. Some of the evidence in this dispute amounts to a "he said, he said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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.

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. 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.

## **ISSUES**

8. The issues in this dispute are whether Mr. Khan is entitled to reimbursement of \$955 for faulty vehicle repair work and, if so, from who?

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, the applicant Mr. Khan bears the burden of proof 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.
10. It is undisputed that Mr. Khan took his vehicle to Mr. Zhong at Bowma as his anti-lock braking system (ABS) warning light was on. Mr. Khan says he was quoted \$1,000 for the fix, but that as he did not want to pay that much, Mr. Zhong agreed to a \$100 "bypass" to fix the problem, which was unsuccessful.
11. Mr. Khan says that Mr. Zhong then instructed him to source a used ABS module, which Mr. Zhong would install in the vehicle. Mr. Khan submits he obtained the necessary part from an auto recycler and went back to Bowma to have it installed, which he paid \$700 cash for. Neither party submitted any invoice for Bowma's work.

12. Shortly after the work was completed, Mr. Khan says the fix was again unsuccessful and the ABS light was still lit on his dashboard. He says Mr. Zhong then advised him the ABS warning light would not go away unless the vehicle was brought to the dealership as they have special tools to clear the light.
13. Mr. Khan took the vehicle to the dealership, which charged him a \$155 diagnostic fee, and told him a used ABS module was inadequate, and he needed a new, unused one. The dealership quoted Mr. Khan \$900 to replace the ABS module. As a result, Mr. Khan says that the respondents' repairs were faulty, and seeks reimbursement of the \$800 he paid Mr. Zhong and Bowma to initially bypass and then install the used ABS module, as well as the \$155 diagnostic fee he paid the dealership.
14. In contrast, the respondents say that when Mr. Khan first visited the shop, Mr. Zhong informed him that it was not worth fixing the ABS dashboard light, as it was just a light issue and did not impact the vehicle's performance. Mr. Zhong says that, against his advice, Mr. Khan returned with a used ABS module and asked him to install it. Mr. Zhong says he informed Mr. Khan it would not fix the problem, but Mr. Khan insisted he install the used ABS module anyway. The respondents deny they charged \$700 for the installation, but do not say what Mr. Khan did pay. As noted above, neither party submitted any invoice for this work.
15. In any event, the respondents say they did not supply the part and deny telling Mr. Khan to purchase a used ABS module. The respondents say the used ABS module was properly installed and that they told Mr. Khan it would not fix the problem, so they submit Mr. Khan is not entitled to any reimbursement.
16. Here, I find I am left with an evidentiary tie. Mr. Khan says the respondents told him the used ABS module would solve his dashboard light issue, while the respondents deny any such assertion. There is no evidence in support of either version of events, other than the parties' own submissions. As noted above, Mr. Khan has the burden of proving his claim on a balance of probabilities, and I find he has not met that burden. As a result, I dismiss his claims.

17. 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 Mr. Khan was not successful, I find that he is not entitled to reimbursement of his paid tribunal fees. Neither party claimed dispute-related expenses.

## **ORDER**

18. I order Mr. Khan's claims, and this dispute, dismissed.

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Andrea Ritchie, Vice Chair