



Civil Resolution Tribunal

Date Issued: June 12, 2020

File: SC-2020-001538

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Orrom v. British Columbia Ferry Services Inc.*, 2020 BCCRT 654

B E T W E E N :

JANE ORROM

APPLICANT

A N D :

BRITISH COLUMBIA FERRY SERVICES INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This small claims dispute is about liability for vehicle damage.
2. The applicant, Jane Orrom, damaged her vehicle while disembarking from a ferry operated by the respondent, British Columbia Ferry Services Inc. (BC Ferries). Ms. Orrom says that BC Ferries is responsible for the damage because a crew member

actively assisted her to park her vehicle in a location without enough room for her to maneuver around a ramp post when exiting the spot. Ms. Orrom claims \$3,000 to pay for the repairs to her vehicle.

3. BC Ferries says that Ms. Orrom was not being crew-assisted during her disembarkation and that she was solely responsible for operating and causing damage to her vehicle.
4. Ms. Orrom is self-represented. BC Ferries is represented by an employee.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT 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 CRT 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.
7. The CRT 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 CRT 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 CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUE

9. The issue in this dispute is whether BC Ferries is liable for the damage to Ms. Orrom's vehicle and, if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant Ms. Orrom bears the burden of proving her claim on the 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.
11. The parties agree that on October 29, 2019, as Ms. Orrom was disembarking a ferry at the Langdale, British Columbia terminal, she was involved in a single-vehicle accident. The CCTV video footage of the incident in evidence confirms that Ms. Orrom was parked at the front of a line of parked vehicles. Directly in front of her were traffic cones marking ramp access to a seating area.
12. In order to exit the ferry, Ms. Orrom was required to maneuver around the cones, into the lane on her right. Once the vehicles in the lane to her right cleared, Ms. Orrom started moving forward, angling her vehicle sharply to the right. As she proceeded forward, the rear driver's side of her vehicle collided with the ramp post and barrier for the seating area on her left and then her front passenger bumper contacted a wall to the right of the lane of travel. Her vehicle sustained damage to both the rear driver's side and the front passenger bumper. Ultimately, Ms. Orrom had to put her vehicle in reverse to straighten out before she was able to proceed forward and off the ferry.
13. Ms. Orrom says that when she initially drove onto the ferry, a BC Ferries crew member had actively assisted her to park too close to the ramp structure. She says that a crew member also should have been there to assist her with leaving, given the difficulty of the maneuver required to get out of her spot. Ms. Orrom acknowledges that she knew the maneuver would be tight but assumed that

because no crew member was present to assist her, she would be able to execute it on her own.

14. BC Ferries says that the ramp structure was highly visible with yellow paint and traffic cones. It says that Ms. Orrom was entirely responsible for moving her vehicle in an unsafe way and that if she thought she was unable to exit safely, she should have sought and waited for a crew-member's assistance. For the reasons that follow, I agree with BC Ferries.
15. Section 169 of the *Motor Vehicle Act* says that a person must not move a vehicle that is stopped, standing or parked unless the movement can be made with reasonable safety. I find that Ms. Orrom knew or should have known that she would be unable to proceed around the cones and into the lane to her right without first backing up to give herself more room to get around the ramp post and barrier. She was responsible for moving her vehicle in a way that caused it damage. Therefore, I find that Ms. Orrom was negligent.
16. This brings me to the question of whether BC Ferries also bears any responsibility. I infer from Ms. Orrom's submissions that she believes BC Ferries was negligent in having a crew member direct her to park too close to the ramp structure. She says she was unable to back up without the entire line of cars behind her also backing up. She also argues that she has since observed on two occasions that cars are no longer parked so close to the seating area ramp, which she says shows that BC Ferries made changes to the vehicle loading practice because it recognized that it was at fault for her vehicle damage.
17. I find that BC Ferries was not negligent for directing Ms. Orrom to park where she did. I agree with BC Ferries' submission that it owes a duty of care to passengers and that the standard of care requires that it provide a safe place for passengers to park their vehicles onboard the ferry. I find this standard was met. There is no suggestion that Ms. Orrom's vehicle was at risk while it was parked, or that Ms. Orrom was unable to safely exit and enter her vehicle.

18. As to whether BC Ferries was negligent for failing to provide her with assistance to exit the spot, I find it was not. I find that Ms. Orrom had reasonable options to get out of the parking spot safely, without damaging her vehicle. She could have pulled forward slightly to allow the line of vehicles behind her to exit first, or she could have waited for or sought a crew-member's arrival to assist her with exiting safely. I find BC Ferries' standard of care does not require it to proactively provide all passengers with assistance in disembarking the ferry. On Ms. Orrom's own submissions, she proceeded on the belief that she could exit the spot without assistance. It was her obligation to make that assessment, not BC Ferries'.
19. Further, BC Ferries denies that it has changed its parking practice since Ms. Orrom damaged her vehicle. It says that many variables determine how vehicles are parked and that parking and traffic configuration changes from sailing to sailing based on the volume and size of vehicles, weather conditions, and ferry weight, among others. I find that Ms. Orrom's observation that cars were parked differently on two later sailings is insufficient to prove that BC Ferries has changed its practice in response to her damaging her vehicle.
20. I find that Ms. Orrom has not met her burden to prove that BC Ferries is responsible for her vehicle damage.

Damages

21. Even if I am wrong in my liability assessment, I find Ms. Orrom has not proven that she is entitled to the remedy she seeks. She claims \$3,000 for the cost of repairs to her vehicle but she did not provide an invoice or any other evidence of the cost she incurred for vehicle repairs, if any.
22. Further, Ms. Orrom wants BC Ferries to admit responsibility for the damage incurred to her vehicle. The CRT cannot order someone admit liability as this amounts to a type of injunctive relief that falls outside the CRT's jurisdiction in section 118 of the CRTA. Even if I had found in Ms. Orrom's favour above, I would decline to grant this particular remedy.

23. For these reasons, I dismiss Ms. Orrom's claims.

TRIBUNAL FEES AND EXPENSES

24. Under section 49 of the CRTA and CRT rules, as Ms. Orrom was unsuccessful, I dismiss her claim for reimbursement of tribunal fees. BC Ferries did not pay any fees. Neither party claimed any dispute-related expenses.

ORDER

25. I dismiss Ms. Orrom's claims and this dispute.

Kristin Gardner, Tribunal Member