



# Civil Resolution Tribunal

Date Issued: June 29, 2020

File: SC-2020-000788

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Yeung v. ICBC*, 2020 BCCRT 715

BETWEEN:

ZHE-HUI JEFFERY YEUNG

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA and JOHN  
DOE

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This small claims dispute is about insurance coverage for an alleged “hit and run” collision on February 10 or 11, 2019. The applicant, Zhe-Hui Jeffery Yeung, says the respondent insurer, Insurance Corporation of British Columbia (ICBC),

incorrectly determined that his vehicle damage was not from a hit and run. Mr. Yeung seeks an order for ICBC to “refute the accusation” against him about providing a wilfully false statement, an order for ICBC to provide insurance coverage, and an order for ICBC to pay for the hit and run claim. Mr. Yeung also claims \$3,000, which I infer is to repair his vehicle’s damage.

2. Although Mr. Yeung did not identify the respondent John Doe’s role in this dispute, I infer this respondent was included to represent the unidentified owner of the vehicle Mr. Yeung says struck his vehicle.
3. ICBC says its estimators’ evidence shows the damage was a result of a single vehicle accident, and is not consistent with vehicle to vehicle contact. Also, it says it concluded Mr. Yeung provided a wilfully false statement to ICBC, and by doing so, Mr. Yeung breached his insurance coverage, as set out in section 75(1)(c) of the *Insurance (Vehicle) Act (IVA)*.
4. Mr. Yeung is self-represented. ICBC 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 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 CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT’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 CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

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. In resolving this dispute the CRT 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**

9. The issues in this dispute are:
  - a. Whether Mr. Yeung filed a false statement to ICBC such that he forfeited any entitlement to insurance coverage, and
  - b. Whether Mr. Yeung is entitled to "hit and run" vehicle damage coverage from ICBC.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant Mr. Yeung 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.

11. Mr. Yeung says that on February 10 or 11, 2019, when his vehicle was parked on the side of Elmbridge Way in Richmond, British Columbia, it was damaged in a hit and run accident. Mr. Yeung says that earlier on February 10, 2019, he was driving a friend home from lunch and due to snowy weather conditions, he lost control of his vehicle and ran into the right-side curb. As a result of the collision, the front right tire was damaged and he was unable to drive the car, so he parked it on the side of the road and called his dad, KY, to come pick him up.
12. On February 11, 2019, KY returned to Elmbridge Way to repair the vehicle's front right tire, and noticed the rear left corner of the vehicle was also damaged. KY moved the vehicle to a nearby parking lot, repaired the front right tire, and took photos of the alleged hit and run damage. On February 17, 2019, Mr. Yeung cancelled his vehicle's insurance with ICBC, because he said he "was not going to drive the car that much".
13. Mr. Yeung did not report the alleged hit and run to ICBC until over two months later, on April 23, 2019. When ICBC asked Mr. Yeung about the delay in reporting, Mr. Yeung said that he thought he would have to fix the vehicle right away and did not want to, and said he was not familiar with the hit and run reporting procedure. Mr. Yeung also did not report the incident to the police. In his initial statement to ICBC Mr. Yeung said it was he who first noticed the left side damage on February 11, 2019 and took photos of it. However, ICBC later discovered it was KY who first noted the damage and took the photos.
14. ICBC says that Mr. Yeung has been inconsistent with his statements and that Mr. Yeung's vehicle damage is not from a hit and run incident. ICBC provided statements from three separate employees: Kim Barron, a Material Damage Estimator, Wade Adams, a Material Damage Manager, and Lauren Jones, an Operations Manager, as well as Special Investigation Unit Officer Dan Gavril. After reviewing Mr. Yeung's vehicle damage, all four individuals gave the opinion that the rear left vehicle damage was inconsistent with vehicle to vehicle contact. ICBC

argues the damage likely occurred during the single vehicle accident that damaged the vehicle's front right tire.

15. I will deal with Mr. Yeung's entitlement to hit and run coverage first, and then the issue of whether he has forfeited coverage for providing a false statement to ICBC.
16. Mr. Yeung applied to ICBC for coverage under section 24 of the IVA. Section 24 describes remedies available for hit and run accidents. By definition, a "hit and run" involves a second vehicle. Given the inspections of Mr. Yeung's vehicle, ICBC determined the most likely cause of damage was not a "hit and run", but instead occurred when Mr. Yeung lost control of his vehicle in the snow and struck a stationary object. ICBC says this was likely the same accident where Mr. Yeung struck the curb with his right front wheel, rendering his vehicle inoperable. Therefore, ICBC denied Mr. Yeung's claim for compensation.
17. Mr. Yeung denies the single vehicle accident caused any damage other than the front right tire, and says the rear left bumper damage was caused by a snow plow. However, Mr. Yeung did not provide any evidence, other than his own bare assertion, about whether the damage could have been caused by a snow plow.
18. In support of his version of events, Mr. Yeung provided an undated written statement from SL, his front seat passenger when the single vehicle accident occurred. SL explained the weather conditions leading to the single vehicle accident and where Mr. Yeung's vehicle was left. SL says Mr. Yeung informed him about the alleged hit and run on February 14, 2019. SL does not state whether the vehicle's rear left bumper struck anything during the single vehicle accident, but does state he "is confident that there was no dent with such significance in the left rear of the car prior to the hit on the curb on February 10, 2019". Given SL's lack of detail about whether the rear left bumper of Mr. Yeung's vehicle struck anything during the single vehicle accident, I give his statement little weight.
19. Although I do not accept ICBC's employees' evidence as expert evidence under the CRT's rules as their qualifications are not before me, I accept their evidence about

the likely cause of the vehicle's damage given their roles and experience, which are not in dispute.

20. On balance, I prefer ICBC's evidence to Mr. Yeung's. I say this because I find Mr. Yeung's evidence less credible than ICBC's. Mr. Yeung was inconsistent in his statements to ICBC about who discovered the vehicle and who took the photos of the damage. On its own, this discrepancy is not significant, however I also find Mr. Yeung was not candid in his reports to ICBC about why he waited over two months to report the alleged hit and run. Although Mr. Yeung says he was unclear about the "hit and run reporting procedure", the evidence is that Mr. Yeung was involved in at least four accidents between 2015 and 2018, all of which he reported to ICBC. I do not accept that Mr. Yeung did not report the accident because he was "unfamiliar" with the process.
21. Additionally, section 24(2) of the IVA requires an insured to report a hit and run incident "as soon as reasonably practicable" and in any event not more than 6 months after the incident. Here, I find Mr. Yeung unreasonably waited more than two months to report the incident, despite having contacted ICBC less than one week later to cancel his car insurance. Yet, he made no mention of the alleged hit and run at that point.
22. Further, after Mr. Yeung reported the incident and an investigation was started, nearby video surveillance footage was no longer available, due to the passage of time.
23. For all the above reasons, I find Mr. Yeung has not met the burden of proving the vehicle's damage was a result of a hit and run, and I dismiss his claims.
24. I turn then to whether Mr. Yeung made a false statement to ICBC about the alleged hit and run, therefore forfeiting his insurance coverage under section 75 of the IVA. In relation to this claim, Mr. Yeung seeks an order that ICBC "refute the accusation" of him providing a wilfully false statement, and an order to provide him with optional insurance coverage.

25. Ordering someone to do something, or to stop doing something, is known as “injunctive relief”. This includes the orders sought by Mr. Yeung noted above. Injunctive relief is outside the CRT’s small claims jurisdiction, except where permitted by section 118 of the CRTA. Mr. Yeung has brought this claim under the CRT’s small claims jurisdiction over debt or damages. There are no relevant CRTA provisions here that would permit me to grant the injunctive relief sought by Mr. Yeung.
26. Because I cannot grant the remedies Mr. Yeung requests, I find it is unnecessary to determine whether Mr. Yeung made a false statement.
27. Under section 49 of the CRTA, and the CRT 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. Yeung was not successful, I find that he is not entitled to reimbursement of his paid tribunal fees. Neither party claimed dispute-related expenses.

## **ORDER**

28. I order Mr. Yeung’s claims, and this dispute, dismissed.

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Andrea Ritchie, Vice Chair