



Civil Resolution Tribunal

Date Issued: July 27, 2020

File: SC-2020-002931

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wang v. ICBC*, 2020 BCCRT 827

B E T W E E N :

JIAMENG WANG

APPLICANT

A N D :

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This small claims dispute is about motor vehicle damage that occurred on September 20, 2019 in Nanaimo, BC. There is no personal injury claim.

2. The applicant, Jiameng Wang, says the respondent insurer, Insurance Corporation of British Columbia (ICBC), improperly refused to accept his claim, which he had filed as a “hit and run” under section 24 of the *Insurance (Vehicle) Act* (IVA). Mr. Wang says he did not necessarily mean another vehicle hit his car but that “something” crashed into it while he was away from his parked vehicle. Mr. Wang says ICBC should cover the damage, whether as a “hit and run” or as a collision claim. Mr. Wang seeks \$1,777.69 for vehicle repairs.
3. ICBC says Mr. Wang made a “hit and run” claim and on examination it determined there was no vehicle to vehicle contact, as required for coverage for a “hit and run”. ICBC says that under section 75 of the IVA Mr. Wang forfeited insurance coverage by making a false statement that there was vehicle to vehicle contact.
4. Mr. Wang 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 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. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me.
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, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

9. The issues in this dispute are:
 - a. Did Mr. Wang give ICBC a false statement such that he has forfeited insurance coverage for his damaged vehicle?
 - b. Is Mr. Wang otherwise entitled to insurance coverage for his damaged vehicle?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant Mr. Wang bears the burden of proof, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
11. As referenced above, Mr. Wang says that on September 20, 2019 he legally parked his 2011 Audi Q7 vehicle “off road” on Bowen Road in Nanaimo, to go swimming. He says that when he returned, he found his vehicle with “huge damage”, namely a “big dent with some scratches” in the left rear door. It is undisputed there are no witnesses and no dash cam footage. Mr. Wang admits he did not call the police, but reported the damage to ICBC that same evening.
12. On October 3, 2019, Mr. Wang gave ICBC a signed and witnessed statement that he is his vehicle’s only owner and primary operator. He wrote that the last time he saw his vehicle without damage was on September 20, 2019, when he parked around 4 pm to go swimming. He wrote that he parked in an off-road parking area

beside a trail entrance. Mr. Wang did not say anything in this document about another vehicle hitting his car and did not otherwise describe how the damage occurred.

13. However, on October 28, 2019, Mr. Wang submitted to ICBC his application for “hit and run” coverage under section 24 of the IVA. The form of the application includes Mr. Wang’s sworn declaration that he believed it to be true. Mr. Wang initialed that his car’s property damage resulted from the negligent use or operation of a motor vehicle and the other vehicle’s owner and driver were unknown to him.
14. ICBC’s employees determined that the vehicle’s damage was not consistent with vehicle to vehicle impact. In particular, ICBC said the damage was low with sharp scratching, heavy gouging and yellow paint transfer that was non-automotive. The photos in evidence show bright yellow paint transfer on Mr. Wang’s vehicle. As noted above, ICBC concluded Mr. Wang made a false statement in his October 28, 2019 application for “hit and run” coverage, since he swore that his vehicle’s damage was the result of another vehicle’s operation.
15. Mr. Wang’s claim is essentially that he meant to say his car was damaged by something, and not necessarily by another vehicle. In his later arguments, he speculates that perhaps the yellow paint was from a big truck or a car with a special bumper. Mr. Wang says ICBC should accept his claim, whether under “hit and run” or as a collision claim.
16. ICBC’s claim file notes document the ICBC employees’ conclusion that the vehicle damage was not the result of vehicle to vehicle contact, and that the yellow paint transfer was from barrier paint rather than from another vehicle. I do not have those employees’ qualifications before me. So, I do not accept their documented statements as expert evidence under the CRT rules, although I accept they are estimators whose role typically includes assessing the cause of vehicle damage.

17. Significantly however, Mr. Wang does not say he knows the damage was a result of vehicle to vehicle contact. His emails to ICBC in evidence show that after the accident he said he did not know how the damage occurred, but in his later submissions in this proceeding he speculates it could have been done by a large truck or a “special bumper”. Mr. Wang submitted no evidence other than his application to ICBC for “hit and run” coverage. In particular, he provided no expert evidence about the cause of his vehicle’s damage. On balance, I find the weight of the evidence shows Mr. Wang’s vehicle damage was not the result of vehicle to vehicle contact.
18. So, I find that Mr. Wang’s October 28, 2019 sworn declaration that his vehicle’s damage being a result of another vehicle’s negligent operation was untrue. While I acknowledge Mr. Wang’s statement in one of his emails to ICBC that his English literacy is poor, I cannot conclude that he was unable to understand the content of what he signed in the declaration. I find the content of Mr. Wang’s various emails with ICBC do not support such a conclusion. Further, Mr. Wang does not submit he did not understand the declaration when he signed it. Instead, he says “I can take responsibility” for what he wrote in his statement and the application for coverage (although he says he ought to have applied for collision coverage rather than “hit and run” coverage).
19. I find Mr. Wang had no reasonable basis to declare that his vehicle was damaged by another vehicle. I find in making the declaration, he willfully made a false statement, which forfeits his right to insurance coverage under section 75 of the IVA. I find there is no basis for insurance coverage in the circumstances. I find Mr. Wang’s claims must be dismissed.
20. Under section 49 of the CRTA and CRT rule 9.5, a successful party is generally entitled to the recovery of their tribunal fees. I see no reason to deviate from that here. Mr. Wang was unsuccessful and ICBC did not pay CRT fees. No dispute-related expenses were claimed.

ORDER

21. I order Mr. Wang's claims and this dispute dismissed.

Shelley Lopez, Vice Chair