



# Civil Resolution Tribunal

Date Issued: September 1, 2020

File: SC-2020-001639

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Rumley v. Green*, 2020 BCCRT 972

BETWEEN:

BARBARA RUMLEY

**APPLICANT**

AND:

LARRY ALEXANDER GREEN

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. The applicant, Barbara Rumley, is neighbours with the respondent Larry Alexander Green. Ms. Rumley says a fire in Mr. Green's garage or shed (shed) caused

damaged to her insured garage. Ms. Rumley claims \$4,311.01 for the garage repairs and the insurance deductible.

2. Mr. Green denies the fire caused damage to Ms. Rumley's garage, and so he asks that the dispute be dismissed.
3. Ms. Rumley is represented by her insurer and Mr. Green is self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.
7. 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 CRT considers appropriate.

## **ISSUE**

8. The issue in this dispute is whether Mr. Green's shed fire caused damage to Ms. Rumley's garage, and if so, what is the appropriate remedy.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, as the applicant Ms. Rumley 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. I note Mr. Green did not submit any evidence, despite having the opportunity to do so.
10. It is undisputed that on July 10, 2018 Mr. Green had a fire in his shed. What is disputed is whether that fire reached Ms. Rumley's garage and damaged it. At the outset, I note Ms. Rumley's garage is about 10 feet from the parties' shared fence, as described by the parties in submissions and as shown in photos in evidence. Mr. Green says his shed was over 40 feet away from Ms. Rumley's garage, which I accept as a rough estimate based on the photos in evidence.
11. Ms. Rumley submitted a May 11, 2020 email from Belfor Property Restoration (Belfor), who wrote that one of the photos showed "how the siding was warped from the heat of the fire". Belfor added that the warping only occurred on the one side, which is what it replaced. A photo submitted in evidence appears to show warping to garage siding. Other submitted photos show the fire was significant and reaching Ms. Rumley's garage.
12. Ms. Rumley also submitted an August 13, 2018 "Structure Fire Report" issued by Emergency Management BC. In the report, Mr. Green is listed as the property owner, and notes that no municipal building permits or electrical permits had been issued for the accessory building conversion Mr. Green had had done. The report noted the fire started in the building's northwest corner, and, that Mr. Green's building's surfaces were all combustible with no fire-resistant materials evident. While the report did not comment on damage to adjacent property such as Ms.

Rumley's, the report noted a number of deficiencies and concluded that the high flame spread ratings of the combustible construction and plant materials would have "propogated the fire rapidly" (quote reproduced as written).

13. Mr. Green does not dispute the findings in the Structure Fire Report, and I accept them as accurate. Mr. Green says the photo in evidence showing him trying to put out the fire with a hose "is not an original copy", and that the flames were "never that big". Mr. Green does not explain how the colour photo in evidence was allegedly doctored to show larger than accurate flames. I reject that unsupported assertion.
14. Given the conclusions in the "Structure Fire Report" and in Belfor's email, I disagree with Mr. Green's unsupported assertion that the fire could not have possibly reached Ms. Rumley's garage. I find Mr. Green's shed fire did cause the damage to Ms. Rumley's garage, as claimed. Whether in nuisance or negligence, I find Mr. Green was negligent in allowing fire to occur and to escape his property and damage Ms. Rumley's property. I say this given the undisputed failure to obtain the appropriate permits for his shed conversion and the deficiencies noted in the Structure Fire Report.
15. Mr. Green also argues that the resident living at Ms. Rumley's property asked him to come look and see if there was any damage, and that Mr. Green saw none. Mr. Green does not identify that resident and as noted above chose not to submit any supporting evidence, such as a witness statement. Mr. Green also argues that one of the resident's family members was tampering with the siding before any insurance inspection was done, but again, Mr. Green submitted no supporting evidence of this, such as photos. While Mr. Green further argues that all the valuables in his shed on Ms. Rumley's side were salvageable, again he provided no photos of the relevant area on his property. On balance, I do not accept Mr. Green's unsupported assertions that the fire, shown to be large in the photos in evidence, did not damage Ms. Rumley's garage siding on the day of the fire.

16. I turn to the question of damages. Belfor's August 10, 2018 estimate for repairs was \$4,311.01, with \$500 of that amount being Ms. Rumley's paid deductible. As referenced above, Ms. Rumley is represented by her insurer who has a subrogated interest in recovering the entire cost of the repairs. This is consistent with Belfor's October 15, 2018 invoice for \$3,811.01, after taking into account the \$500 deductible. I find Ms. Rumley is entitled to reimbursement of the repair invoice as well as the insurance deductible as she only incurred that expense as a result of the fire. The total cost of her garage repair was the \$4,311.01 claimed.
17. Mr. Green did not argue the amount claimed for repairs was unreasonable and I find no evidence to suggest it is. So, I allow the \$4,311.01 as claimed.
18. The *Court Order Interest Act* (COIA) applies to the CRT. I find Ms. Rumley is entitled to pre-judgment interest under the COIA on the \$4,311.01, from the October 15, 2018 invoice for repairs. This equals \$142.68.
19. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to the recovery of their CRT fees. As Ms. Rumley was successful, I find she is entitled to reimbursement of \$175 in paid CRT fees. No dispute-related expenses were claimed.

## **ORDERS**

20. Within 21 days of this decision, I order the respondent Larry Alexander Green to pay the applicant Barbara Rumley a total of \$4,628.69, broken down as follows:
  - a. \$4,311.01 in damages,
  - b. \$142.68 in pre-judgment COIA interest, and
  - c. \$175 in CRT fees.
21. Ms. Rumley is entitled to post-judgment interest, as applicable.

22. Under section 48 of the CRTA, the CRT will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the CRT's final decision. The Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is expected to be in effect until 90 days after the state of emergency declared on March 18, 2020 ends, but the Province may shorten or extend the 90-day timeline at any time. A party should contact the CRT as soon as possible if they want to ask the CRT to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.
23. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Shelley Lopez, Vice Chair