



Civil Resolution Tribunal

Date Issued: December 3, 2020

File: SC-2020-005708

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gupta v. Mobler Imports Ltd.*, 2020 BCCRT 1372

B E T W E E N :

VIJAY GUPTA

APPLICANT

A N D :

MOBLER IMPORTS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about a manufacturer's warranty. The applicant, Vijay Gupta, says 9 months after he purchased a sofa bed from the respondent, Mobler Imports Ltd. (Mobler), the stitching in one of the seams ripped. He also says that although there

was a manufacturer's warranty on the sofa, Mobler refused to repair or replace it, or provide a refund. Mr. Gupta seeks \$781.61 for the cost of the sofa. He also seeks \$100 for a "dumping cost".

2. Mobler says the warranty only applies to a manufacturer's defect and the ripped seam is not a manufacturer's defect. Mobler also says the warranty did not apply to the sofa bed's fabric. It also says Mr. Gupta used the sofa bed in a rental house, which voided the warranty.
3. Mr. Gupta is self-represented and Mobler is represented by an employee.
4. For the reasons stated below, I dismiss Mr. Gupta's claims.

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). Section 2 of the CRTA states that 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 the dispute's parties that will likely continue after the CRT process has ended.
6. Section 39 of the CRTA says 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 in the interests of justice.
7. Section 42 of the CRTA says 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 the ripped seam was covered by Mobler's warranty, and if so, the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Gupta must prove his claims on a balance of probabilities. I have reviewed the evidence and arguments but refer to them only as I find necessary to explain my decision.
11. The parties agree that Mr. Gupta purchased 2 sofa beds from Mobler on July 11, 2019 and paid a total of \$1,563.52. Aside from the fabric colour, the sofa beds were identical.
12. Mr. Gupta says that after 9 months, the stitching in one of the sofa bed's seat cushion seams was ripped. Mr. Gupta did not state the size of the ripped seam. However, based on Mr. Gupta's photograph, I find it was less than 2 inches.
13. Mr. Gupta says on March 9, 2020 he emailed photographs of the ripped seam to Mobler. He says Mobler refused to either repair the seam, replace the sofa, or provide a refund. Mr. Gupta seeks \$781.61 in damages from Mobler. Although he did not explain how he arrived at this amount, I infer it is 50% of the invoice and is meant to represent the amount Mr. Gupta paid for the sofa bed with the ripped seam.
14. Mr. Gupta also says the sofa bed is unusable due to the ripped seam and seeks \$100 for the cost of disposing of it. Mr. Gupta did not explain how the ripped seam affected the sofa bed's function or use. I find the sofa bed is still functional despite the ripped seam. I find Mr. Gupta has not proved the ripped seam cannot be repaired and so I dismiss his claim for the \$100 disposal cost.

Is the warranty an enforceable contract between the parties?

15. The parties each submitted a copy of the invoice for the sofa beds that Mr. Gupta purchased. However, the invoices contained different delivery dates and warranty terms. According to the invoice from Mr. Gupta with a July 11, 2019 delivery date, Mobler offered a one-year limited warranty on all regular merchandise from the date of delivery. It also stated that if “anything is wrong” with the new furniture due to a manufacturer’s defect, all labour and material costs to rectify the defect would be covered.
16. Mobler’s invoice copy showed a September 9, 2019 delivery date and similarly offered a 1-year “limited manufacturer warranty” on all regular merchandise from the date of delivery. However, it stated that if “anything is wrong” with the new furniture due to a manufacturer’s defect, the **manufacturer** would cover all labour and material costs to rectify it.
17. I find Mobler’s invoice warranty is not binding on the parties since there is no evidence Mr. Gupta was provided with a copy of it or was aware of the terms. Likewise, I find the July 11, 2019 delivery date is binding since it was provided to both parties.
18. I also find the warranty under Mr. Gupta’s invoice forms a binding contract between the is enforceable since to pay for all labour and material costs to rectify a manufacturer’s defect.

Is the ripped seam covered by the manufacturer’s warranty?

19. As mentioned above, Mr. Gupta’s copy of Mobler’s warranty stated that it applied to manufacturer’s defects in new furniture. Mobler says that a small seam opening on a sofa seat cushion is not a manufacturer’s defect and the warranty does not cover damage that occurs as a result of how furniture is used after it is delivered to the customer. I find a manufacturer’s defect is an accidental error in the production of a product that causes it not to work as intended.

20. So, is the ripped seam a manufacturer defect? Mr. Gupta did not explain how the ripped seam was a manufacturer's defect or affected the sofa bed's intended use. I find that he has not met his burden of proof and the ripped seam is not a manufacturer's defect. Since the ripped seam is not a manufacturer's defect, I find the warranty does not apply.
21. Since I have found the warranty does not apply to the ripped seam, I do not need to address whether the warranty applied to fabric or whether the warranty applied to furniture used in rental suites.

Sale of Goods Act

22. I considered whether an implied warranty of fitness under the *Sale of Goods Act* (SGA) applied even though Mobler offered a limited warranty. I find the SGA may apply because Mobler's warranty did not contain any language to exclude the SGA (see *Hunter Engr. Co. v. Syncrude Can. Ltd. et al* (1989), 1989 CanLII 129 (SCC), 35 B.C.L.R. (2d) 145 (S.C.C.)).
23. Section 18 of the SGA sets out implied conditions that sold goods be of "merchantable quality", reasonably durable and fit for their intended purpose. I find the evidence does not show that Mr. Gupta told Mobler the sofa beds were required for a particular purpose, or that he purchased them by description. So, I find the implied warranty of fitness for purpose in section 18(a) is not applicable. Also, since Mr. Gupta says that he first noticed the ripped seam in March 2020, 9 months after he and his family used the sofa bed in a "daily routine manner", I find the sofa bed was of merchantable quality when it was delivered and so section 18(b) also does not apply.
24. I turn to the issue of durability. Section 18(c) of the SGA requires that the goods sold be durable for a reasonable period with normal use and considering the surrounding circumstances of the sale.
25. Mobler says the seam ripped because of the way the sofa bed was used. First, it says the sofa bed was used in a rental residential property. I infer that by this Mobler meant the sofa bed was subjected to abnormal use or wear and tear. Mr. Gupta denies this

allegation and says that although he initially planned on renting the house the sofa bed was in, he changed his mind and moved into the house with his family. I find whether Mr. Gupta used the sofa bed or it was used in a rental house is irrelevant since it was still used for residential purposes and so Mobler has not shown the use was not normal.

26. Second, Mobler says that the seam could have separated because concentrated force was applied which could happen if a person stood on the sofa bed or from heavy use. Mr. Gupta denies this happened. I find Mobler's allegation is speculative. Mobler did not explain how standing on the sofa bed would cause the seam to rip in the spot shown in the photograph. It also did not provide proof that anyone stood on the sofa bed after it was purchased.

27. Was the sofa bed durable for a reasonable period of time? Mr. Gupta says the seam ripped within 9 months of purchasing the sofa bed and it is no longer usable. As mentioned above, I find Mr. Gupta has not demonstrated that the sofa bed is not usable or functional due to the ripped seam. So, I find the ripped seam did not affect the sofa bed's durability and section 18(c) of the SGA was not breached.

28. As there is no issue about the sofa bed's intended purpose, I find Mobler did not breach the implied warranties under the SGA.

CRT FEES AND DISPUTE-RELATED EXPENSES

29. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Since Mr. Gupta was unsuccessful, I dismiss his claim for CRT fees. Mobler did not seek dispute related expenses.

ORDER

30. I dismiss Mr. Gupta's claims and this dispute.

Rama Sood, Tribunal Member