



Civil Resolution Tribunal

Date Issued: December 22, 2020

File: SC-2020-005355

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *J Bryan Gascon Investments Inc. v. Premium Truck & Trailer Inc.*,
2020 BCCRT 1451

B E T W E E N :

J BRYAN GASCON INVESTMENTS INC.

APPLICANT

A N D :

PREMIUM TRUCK & TRAILER INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This dispute is about an outstanding balance on a credit account. The applicant, J Bryan Gascon Investments Inc. (Gascon) offered the respondent, Premium Truck & Trailer Inc. (Premium), a credit account at its retail store. Gascon says that Premium

failed to pay charges of \$2,366.68, and asks for an order for payment of this amount. Premium says that Gascon allowed unknown individuals to make fraudulent charges on its account, and denies that it is responsible for the outstanding balance.

2. Each party is represented by its owner.

JURISDICTION AND PROCEDURE

3. 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.
4. 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.
5. 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.
6. 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

7. The issue in this dispute is whether Premium is responsible for the \$2,366.68 charge on its credit account.

EVIDENCE AND ANALYSIS

8. In a civil dispute like this, an applicant bears the burden of proof on a balance of probabilities. The parties provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only what is necessary to provide context to my decision.
9. Premium opened a credit account with Gascon in 2014. Premium filled out a pre-printed Credit Application on May 12, 2014, and answered “yes” to a question about whether purchase order numbers were required for purchases. The form then asked, if no purchase order numbers were required, to list the people who were authorized to bill to the account. Premium listed 2 employees in this space, KN and ER, in this space.
10. Gascon says it interpreted the form as meaning that KN and ER were permitted to make purchases without purchase order numbers, but that such numbers were required for all other employees.
11. Premium says that, in its view, a purchase order number was required for all purchases and that only KN and ER were allowed to make purchases on the account. According to Premium, Gascon has been “very lax” in the past and had allowed unauthorized individuals to make purchases. However, Premium says that it paid all previous invoices despite these problems as the purchasers were their employees.
12. On February 9, 2020, someone charged a purchase of \$2,366.68 to Premium’s credit account. The transaction listing for Premium’s account shows a charge of this amount, but does not show purchase order numbers or the identity of the individual who made the purchase.
13. Gascon says the purchase was made by a person who was an employee or coached by an employee, as this individual “knew the system”, went to the customer service desk instead of a regular cashier, and provided a purchase order number.

14. Premium denies that the February 9 purchase was made by one of its employees. Premium says that Gascon's employees did not ask the person if he was an employee or ask for identification. Premium submits that Gascon's employee made a mistake by not ensuring that the purchaser was authorized to charge to its account, and that Premium should not have to pay for this mistake. Premium says the purchase was fraudulent and that it has reported the matter to the local police.
15. Gascon says, and Premium did not deny, that KN and ER do not live in the region anymore. Gascon provided documentation of sample transactions on December 11, 2018, January 17, 2019, and February 21, 2019, when 3 people other than KN and ER charged items to Premium's account. All 3 of these transactions included a purchase order number and were paid by Premium. I find that Premium's position that only KN and ER were allowed to make purchases is not consistent with it allowing other employees and managers to make purchases over a period of approximately 5 years. I find that the credit application's wording did not restrict purchases to these 2 employees, but that the parties' agreement required purchase order numbers for each transaction.
16. As noted, the transaction listing confirms that a charge was made to Premium's account on February 9, 2020, but the listing does not include the purchaser's name or the purchase order number. Although Gascon says that the individual involved with the February 9 purchase had a purchase order number, it did not provide documentation of it for this transaction. Parties are instructed during the facilitation process to provide all relevant evidence to the CRT. Gascon did not explain why it could provide detailed information about other transactions but not the transaction in question.
17. Without information about the disputed transaction, Gascon has not established that a purchase order number was provided to it, which I find is a requirement for Premium to take responsibility for charges to its account. Similarly, without information about the transaction, I cannot make any finding about whether the purchaser was a Premium employee (past or present).

18. Keeping in mind that Gascon bears the burden of proof, I find that it has not established that Premium is responsible for the \$2,366.68 charged to the account on February 9, 2020. So, I dismiss Premium's claim for payment of this amount.
19. Under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. In this case, Gascon waived its right to claim dispute-related fees and expenses. Given that it was unsuccessful, I would not have made an order for reimbursement even if a claim had been made.

ORDER

20. I dismiss Gascon's claim and this dispute.

Lynn Scrivener, Tribunal Member