



Civil Resolution Tribunal

Date Issued: March 10, 2021

File: SC-2020-006353

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Isacescu v. Dr. P.M. Vigneault Inc. dba Willow Dental Care West End*,
2021 BCCRT 272

B E T W E E N :

RUXANDRA ISACESCU

APPLICANT

A N D :

DR. P.M. VIGNEAULT INC. dba WILLOW DENTAL CARE WEST END
and NISHANT GOSWAMI

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, Ruxandra Isacescu, says that on June 5, 2020 she received poor dental treatment. She claims \$1,200 for a replacement dental crown.

2. Initially, Ms. Isacescu named only Dr. P.M. Vigneault Inc. dba Willow Dental Care West End (Willow) as the sole respondent. Willow says it was not involved in Ms. Isacescu's care as it had sold the practice before Ms. Isacescu's tooth was treated.
3. Later, Ms. Isacescu amended her claim and also named Nishant Goswami as a second respondent. She says Nishant Goswami was the attending dentist on June 5. As discussed further below, Nishant Goswami did not file a Dispute Response and so has not participated in this proceeding.
4. Ms. Isacescu is self-represented. Willow is represented by Pierre Vigneault.

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 able to assess and weigh the documentary evidence and submissions before me.
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.

9. Before this dispute was assigned to me for adjudication, Ms. Isacescu indicated she wanted to withdraw her dispute on the basis she had filed in another jurisdiction. CRT staff sought supporting documentation from her by January 24, 2021. Ms. Isacescu did not provide any, and instead on January 26, 2021 advised she wanted to rescind her request to withdraw her dispute.

ISSUE

10. The issue in this dispute is whether either Willow or Nishant Goswami improperly treated Ms. Isacescu's tooth during a dental treatment, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant Ms. Isacescu must prove her claims on a balance of probabilities. I have read all the evidence and submissions before me, but refer only to what I find relevant to provide context for my decision. While Ms. Isacescu provided some evidence as discussed below, she chose not to submit any submissions despite having the opportunity to do so.
12. Ms. Isacescu had been a patient at Willow's office in Vancouver. As noted, the treatment at issue occurred on June 5, 2020.
13. Willow says the practice was sold to Dr. Nishant Goswami on June 1, 2020, and so Willow has no liability for Ms. Isacescu's claims for her treatment that occurred 5 days later on June 5. The sale is supported by a Statement of Adjustments submitted by Willow. Ms. Isacescu does not argue otherwise, and the evidence shows no basis for Willow to be held liable. So, I dismiss her claims against Willow.
14. I turn to Nishant Goswami's liability, who I will refer to as Dr. Goswami. The CRT served them by regular mail at the Vancouver address provided by Ms. Isacescu, which is the same address she says she received treatment on June 5, 2020. Under the CRT's rules, the Dispute Notice was deemed served on Dr. Goswami on

November 12, 2020. The CRT also sent the Dispute Notice to an “info” email box for what appears to be a Willow Dental Care address. Dr. Goswami did not file a Dispute Response within 14 days, as required under the CRT’s rules.

15. Given Dr. Goswami’s failure to file a Dispute Response, they are in default. However, despite this default status, I find they are not responsible for Ms. Isacescu’s claims, as discussed further below.
16. In a Statement of Facts prepared before this dispute was assigned to me for adjudication, Ms. Isacescu says that Dr. Goswami advised her on June 5, 2020 that her tooth required “crowning”. She says that the preparatory work Dr. Goswami completed left her with pain and she requested that the “temporary crown” be removed, which Dr. Goswami did the same day. Ms. Isacescu admits she did not return to Dr. Goswami’s office for any further dental work. In substance, this mirrors her description of her claim in the earlier Dispute Notice, in which Ms. Isacescu alleged that Dr. Goswami removed the walls of her affected tooth without asking her and without having a permanent crown ready for replacement.
17. However, the only evidence Ms. Isacescu submitted were x-ray images of teeth. She submitted no evidence from a qualified dentist critical of the treatment she received, and expert evidence is normally required to prove a professional’s negligence (see *Bergen v. Guliker*, 2015 BCCA 283). I find there is simply nothing before me that would establish Dr. Goswami failed to properly treat her.
18. In any event, even if I assumed liability due to Dr. Goswami’s default status, Ms. Isacescu has submitted nothing, such as a quote, estimate or an invoice, to support her claim for \$1,200 for a replacement crown. Given her failure to prove damages, I dismiss her claims and this dispute.
19. 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. Ms. Isacescu was unsuccessful and Willow did not pay CRT fees, so I make no order about them.

ORDER

20. I order Ms. Isacescu's claims and this dispute dismissed.

Shelley Lopez, Vice Chair