



# Civil Resolution Tribunal

Date Issued: May 3, 2021

File: SC-2020-007775

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lo v. 1251440 B.C. Ltd.*, 2021 BCCRT 468

**B E T W E E N :**

SCOTT LO

**APPLICANT**

**A N D :**

1251440 B.C. LTD.

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Micah Carmody

## INTRODUCTION

1. The applicant, Scott Lo, brought his dirt bike to Oil Hounds Moto, a repair shop operated by the respondent, 1251440 B.C. Ltd. (125). 125 did not repair the bike.

2. Mr. Lo requests a refund of the \$1,000 deposit he paid to 125 to order parts. He also seeks reimbursement of \$537.60 he says he paid another shop to confirm that no new parts were installed on his bike. Mr. Lo represents himself.
3. 125 says a former co-owner, GB, was working on Mr. Lo's bike. It says when 125 separated from GB, it gave Mr. Lo the choice to have 125 finish the work or to take the bike to GB, or another shop. Mr. Lo chose to take his bike to GB, so 125 says it is not responsible for the refund or the Honda invoice. George Howes, an owner, represents 125.

## **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). 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.
5. 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.
6. 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.

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, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUES**

8. The issues in this dispute are:
  - a. Must 125 refund Mr. Lo's \$1,000 deposit?
  - b. Must 125 reimburse Mr. Lo's alleged \$537.60 expense to check if parts were installed on his bike?

## **EVIDENCE AND ANALYSIS**

9. As the applicant in this civil dispute, Mr. Lo must prove his claim on a balance of probabilities. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
10. Text messages in evidence show that in late June 2020, Mr. Lo began texting GB about repairing his dirt bike. It is undisputed that at the time, GB worked out of Oil Hounds Moto. Mr. Howes describes GB as a former co-owner of 125. Mr. Lo brought his bike to Oil Hounds Moto.
11. GB requested a \$1,000 deposit to purchase parts to repair the bike. On July 9, 2020, Mr. Lo paid \$1,000 by e-transfer to a generic address at Oil Hounds' email domain.
12. On a date that is not clear from the evidence but was before Mr. Lo's bike was fixed, GB and Mr. Howes ended their business relationship. On August 12, 2020, Mr. Howes texted Mr. Lo that he had banned GB from the shop and "taken possession" of 125.
13. Around the same time, Mr. Howes texted Mr. Lo that the parts were ordered and coming from a supplier. It is not clear whether 125 ever received the parts.

14. At some point, Mr. Lo collected his bike from 125 and took it to GB's new shop, believing GB had the parts. Mr. Lo says GB failed to install the parts on his bike or repair it at all.
15. Mr. Howes argues that he had no communication with Mr. Lo. He says this dispute is properly between Mr. Lo and GB. I find it does not matter which person Mr. Lo discussed the bike repairs with because GB was an agent or representative of 125 at the time. I say this because GB was 125's then co-owner, because Mr. Lo delivered his bike to 125's shop, because Mr. Lo sent money to Oil Hounds, and because GB left Mr. Lo's bike with 125 when he left 125. So, I find the agreement to repair Mr. Lo's bike was between Mr. Lo and 125.
16. Without evidence to the contrary, I find 125 owned and controlled the Oil Hounds email. So, I find Mr. Lo's \$1,000 payment was likely deposited to a bank account that 125 controlled. Therefore, I find 125 accepted \$1,000 from Mr. Lo as a deposit in order to purchase parts and perform necessary repairs on Mr. Lo's bike. There is no dispute that 125 did not supply or install the parts. Therefore, I find 125 breached its agreement with Mr. Lo.
17. 125 argues that Mr. Lo was given the choice to have 125 complete the repairs or take his bike to GB. 125 says given Mr. Lo chose to take his bike to GB, it is not responsible for the refund. I do not agree. There is no suggestion that Mr. Lo agreed that by choosing to take his bike to GB he was forfeiting his deposit.
18. 125 implies that GB is responsible for the refund. Mr. Howes said in a text to Mr. Lo that GB stole every penny 125 earned. However, GB is not a party to this dispute and GB's alleged theft from 125 has no bearing on 125's contractual obligations or debts. CRT staff advised 125 of the option of adding a third party claim against GB, but 125 declined.
19. Damages for breach of contract should put the innocent party in the position they would have been in if the contract has been performed. I accept that Mr. Lo did not

receive any parts or work on his bike, so I find the best measure of damages is a full refund of \$1,000.

20. Mr. Lo also claimed \$537.60 for the cost of another shop to check whether new parts were installed. Mr. Lo does not explain why this was necessary. Mr. Lo did not provide any evidence from that shop in this dispute. Mr. Lo also did not provide an estimate, invoice, or receipt in support of the claimed \$537.60. For these reasons I find the \$537.50 claim is not proved and I dismiss it.
21. The *Court Order Interest Act* applies to the CRT. Mr. Lo is entitled to pre-judgment interest on the \$1,000 deposit from July 9, 2020, the date the deposit was paid, to the date of this decision. This equals \$3.69.
22. 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. I find the applicant is entitled to reimbursement of \$125 in CRT fees. Neither party claimed dispute related expenses.

## **ORDERS**

23. Within 14 days of the date of this order, I order 125 to pay Mr. Lo a total of \$1,128.69, broken down as follows:
  - a. \$1,000.00 for the deposit,
  - b. \$3.69 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125.00 in CRT fees.
24. Mr. Lo is entitled to post-judgment interest, as applicable.
25. 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.

26. 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.

---

Micah Carmody, Tribunal Member