



# Civil Resolution Tribunal

Date Issued: June 3, 2021

File: SC-2020-009348

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Burke v. Chang*, 2021 BCCRT 606

BETWEEN:

LA' SHAWN BURKE

**APPLICANT**

AND:

YE CHANG and LYLE WILLIAMS

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Kristin Gardner

## INTRODUCTION

1. This dispute is about a private used vehicle sale. The applicant, La' Shawn Burke, says that he bought a car from the respondents, Ye Chang and Lyle Williams, and that the respondents were to transfer the vehicle's warranty to him as part of the sale. Mr. Burke claims the respondents failed to transfer the vehicle's warranty, as promised. He claims \$2,000 for the warranty's value.

2. The respondents say that when they sold the vehicle to Mr. Burke, they immediately started the process of transferring the vehicle's warranty to Mr. Burke. They say there was a delay beyond their control, but that as of December 17, 2020, the vehicle's warranty title was transferred to Mr. Burke. The respondents say they owe Mr. Burke nothing.
3. Mr. Burke is self-represented. Mrs. Chang represents both respondents.

## **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.

## **ISSUE**

8. The issue in this dispute is whether the respondents must refund Mr. Burke any of the vehicle's purchase price for their failure to transfer the vehicle's warranty to Mr. Burke.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, the applicant Mr. Burke must prove his claims on a balance of probabilities. Mr. Burke did not submit any evidence or make any submissions in support of his claims, despite having the opportunity and several reminders from CRT staff to do so. Mr. Burke sent an April 7, 2021 email to CRT staff that stated he thought he resolved this "a while back". Despite additional follow up emails and voicemails to Mr. Burke, he did not communicate with the CRT further. Mrs. Chang paid the CRT decision fee, which the CRT rules permit, because Mr. Burke did not respond to the CRT's requests to pay it.
10. I have read the respondents' evidence and submissions, but I refer only to the evidence and arguments that I find relevant to provide context for my decision.
11. It is undisputed that Mr. Burke purchased a used vehicle from the respondents on October 5, 2020. In the Dispute Notice, Mr. Burke claims that the respondents' advertisement stated the vehicle came with an existing warranty, which was held by a third party, GW. Mr. Burke claims that months went by and he heard nothing about the warranty being transferred into his name. He says he called GW and was advised that GW voided the warranty and would not honour it. Mr. Burke claims \$2,000 of the vehicle's total purchase price was for the warranty's value.
12. The respondents do not seriously dispute Mr. Burke's claims, though they say the warranty was originally purchased for \$2,200, so it was not worth \$2,000 when they sold the vehicle to Mr. Burke. The respondents say they attempted to transfer the vehicle's warranty to Mr. Burke immediately after the sale, but that GW initially claimed the respondents had not properly maintained the vehicle, which voided the

warranty. I find the evidence shows this turned out to be a misunderstanding based on another third party's faulty record keeping. I find the evidence shows that due to the respondents' diligence, GW reversed its position and ultimately agreed to transfer the vehicle warranty's title to Mr. Burke on December 16, 2020. I note that the Dispute Notice was issued on December 4, 2020, before the respondents say the warranty was transferred to Mr. Burke.

13. The respondents provided a copy of a December 17, 2020 email from GW to Mr. Burke, confirming GW had transferred the warranty into Mr. Burke's name. As noted, Mr. Burke did not make submissions or provide any evidence in this dispute. I find the evidence establishes that the warranty was transferred to Mr. Burke. There is no claim for damages arising from any delay in transferring the warranty, only for the warranty itself. Given that Mr. Burke now has the warranty, I dismiss Mr. Burke's claim.
14. I find it is likely Mr. Burke believed this dispute was resolved when the warranty was transferred to him. It is unclear why he did not withdraw the dispute. I note that CRT staff made several attempts to contact Mr. Burke and he failed to meaningfully respond. All participants are informed in writing at the beginning of the facilitation process that they must actively participate in the dispute resolution process and respond to the case manager's communications.
15. Mr. Burke initiated this dispute. If he believed the matter was resolved, I find it was his obligation to ensure he properly withdrew his claim. Given he did not do so, Mrs. Chang paid the CRT decision fee to have this dispute finally resolved. Under the circumstances, I find it was appropriate for Mrs. Chang to do so.
16. 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. Given the respondents are the successful party, I find Mrs. Chang is entitled to reimbursement of the \$50 CRT decision fee. Neither party claimed any dispute-related expenses. I dismiss Mr. Burke's claim for reimbursement of his CRT fees.

## ORDERS

17. Within 14 days of the date of this decision, I order Mr. Burke to reimburse Mrs. Chang \$50 for the CRT decision fee.
18. Mrs. Chang is entitled to post-judgment interest, as applicable.
19. I dismiss Mr. Burke's claims.
20. 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.
21. 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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Kristin Gardner, Tribunal Member