



# Civil Resolution Tribunal

Date Issued: June 10, 2021

File: SC-2020-005833

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lin v. Dueck Chevrolet Buick Cadillac GMC Limited  
dba Dueck On Marine, 2021 BCCRT 639*

BETWEEN:

KEITH LIN

**APPLICANT**

AND:

DUECK CHEVROLET BUICK CADILLAC GMC LIMITED dba DUECK  
ON MARINE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about brake repairs. The applicant, Keith Lin, hired the respondent, Dueck Chevrolet Buick Cadillac GMC Limited dba Dueck On Marine (Dueck), to

repair his car's brakes. Mr. Lin claims that Dueck performed unauthorized repairs by allegedly replacing both a damaged brake part and an undamaged brake part that did not need repairs. Mr. Lin claims a \$385 refund.

2. Dueck denies Mr. Lin's claim. Dueck says it appropriately replaced both brake parts because these parts must be replaced together.
3. Mr. Lin is self-represented. Dueck is represented by an employee.

## **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. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the CRT's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
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 Dueck must refund Mr. Lin \$385 for performing unauthorized brake repairs.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, the applicant Mr. Lin must prove his claim on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant to provide context for my decision.
10. Dueck says it performed a brake inspection and it gave Mr. Lin an estimate, which he agreed to. However, Dueck did not provide a copy of the estimate or describe the recommended repairs. Mr. Lin says he hired Dueck to repair his car's brakes on January 6, 2020 and he specifically asked Dueck to repair his brake system as necessary, "but not extra". Since Dueck did not dispute this, I find that Dueck agreed to perform necessary brake repairs.
11. Dueck performed brake repairs and issued a July 7, 2020 invoice for \$888.84, which Mr. Lin paid.
12. Mr. Lin says he later discovered that Dueck performed and charged for allegedly unauthorized work. Mr. Lin says that his left brake rotor needed replacement but Dueck replaced both the left and right rotors. Mr. Lin says the right rotor was not damaged and did not need to be replaced. Mr. Lin provided photographs of both of the replaced rotors. He says that the photos show that the left rotor was damaged but the right rotor was not damaged.
13. Where the subject matter is technical, or beyond common understanding, it is often necessary to produce expert evidence to determine whether work was performed

properly (see *Bergen v. Guliker*, 2015 BCCA 283). I find that brake replacement is technical and outside ordinary knowledge. I cannot determine the condition of the rotors or whether Dueck performed unnecessary work from Mr. Lin's photographs. I find that expert evidence is required to prove Dueck's work was unnecessary. Yet, Mr. Lin has not provided any expert mechanical opinions.

14. Dueck says that Mr. Lin's car's right front brake caliper was seized and required replacement. Dueck says the caliper damage wore out the right front rotor, which also needed to be replaced. Dueck says that when a rotor is replaced, the rotors on both sides of the vehicle must be replaced at the same time to ensure equal rotor thickness.
15. Dueck also provided the vehicle manufacturer's instructions which say that both rotors must always be replaced at the same time so the surfaces have identical smoothness and scoring depth. The manufacturer's instructions say this is required to guarantee uniform braking on both sides. Since Mr. Lin has not provided any expert evidence refuting the manufacturer's instructions, I accept Dueck's submission that it needed to replace both rotors.
16. I note that Dueck says the right rotor was damaged, but Mr. Lin says that it was the left rotor that was damaged. However, I find that nothing turns on this discrepancy since both rotors needed to be replaced anyway as discussed above.
17. Mr. Lin says that he authorized all necessary brake repairs and, for the above reasons, I am satisfied that the replacement of both rotors was necessary. So, I find that Mr. Lin has not proved that Dueck breached the contract.
18. Further, even if Mr. Lin had proved that Dueck had breached the contract, I would still dismiss his claim because I find that he has not proved his damages. Mr. Lin has not provided any evidence supporting his claim that the allegedly unnecessary work cost \$385.
19. For the above reasons, I dismiss Mr. Lin's claim.

20. 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 see no reason in this case not to follow that general rule. Since Mr. Lin was not successful, I dismiss his claim for reimbursement of CRT fees. Dueck did not claim reimbursement of dispute-related expenses.

## **ORDER**

21. I dismiss Mr. Lin's claim and this dispute.

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Richard McAndrew, Tribunal Member