



Civil Resolution Tribunal

Date Issued: June 25, 2021

File: SC-2020-009094

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Zhu v. Li*, 2021 BCCRT 709

B E T W E E N :

YU ZHU

APPLICANT

A N D :

LING LING LI

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Yu Zhu, and the respondent, Ling Ling Li, used to live at the same address. The applicant says that after she moved out, she had 2 packages delivered to that address. The applicant says that the respondent took the packages. She asks for an order that the respondent return the packages, or pay her \$351.08, which she says is their value.

2. The respondent denies receiving the packages. The respondent asks that I dismiss the applicant's claims.
3. The parties are each self-represented.

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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to 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 pay money or to do or stop doing something. The tribunal's order may include any terms or conditions the CRT considers appropriate.

ISSUES

8. The issues in this dispute are:
 - a. Did the respondent receive the applicant's 2 packages sent to the respondent's address?
 - b. If so, what remedy is appropriate?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove her case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. As mentioned above, the parties used to live at the same address. The applicant moved out in June 2020, but the respondent stayed. The respondent purchased the property in July 2020. This is not in dispute.
11. The applicant says that in October and November 2020, she bought 2 packages that she accidentally had shipped to the respondent's address. The applicant says that this happened because she had a subscription to the products, so they were "auto-ordered". She says that once the order was confirmed, she could not change the address. The packages each cost \$175.54, totaling the claimed \$351.08.
12. Canada Post delivered both packages. According to the tracking records that the applicant provided, Canada Post delivered the October package on October 13, 2020, to "recipient's front door". Canada Post delivered the November package on November 10, 2020, to "community mailbox, parcel locker or apt./condo mailbox". Nobody signed for either package. Still, the applicant argues that the tracking records prove that the respondent received both packages.
13. The respondent denies ever seeing the 2 packages in question. The respondent notes that packages left on doorsteps can be taken by anyone. The respondent also says that there is a history of thefts from their community's locked mailboxes,

although they provide no evidence to support this assertion. The respondent also suggested that the applicant may still have a mailbox key, since the respondent's real estate agent only gave them 1 mailbox key when they took possession. However, there is no evidence of this. In any event, the respondent says that they had no legal responsibility for items that the applicant mailed to the respondent's address after she had moved out.

14. The respondent does not have to prove that they do not have the packages or prove what happened to them. As mentioned above, the burden is on the applicant to prove that the respondent took the packages. I find that she has not done so. I accept the respondent's argument that it is possible that a stranger, or someone else living at the respondent's address, stole them both. The applicant's own evidence and submissions indicate that there are multiple people at the respondent's address. The applicant did not claim against any other person, and the respondent is not responsible for what other people living with them do. So, while the tracking information proves that the packages were delivered to the respondent's address, it does not prove that the respondent took them or that the respondent has them now.
15. Since no one signed for the 2 packages, it is impossible to know with certainty what happened to them after they were delivered. I recognize that it is possible that the respondent did receive the packages and is not telling the truth in this dispute, as the applicant argues. However, on balance, I find that the applicant has not proven that the respondent took the packages or has them now. For this reason, I dismiss the applicant's claims.
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. The applicant was unsuccessful, so I dismiss her claim for CRT fees and dispute-related expenses. The respondent paid \$50 in CRT fees, which I order the applicant to reimburse. The respondent did not claim any dispute-related expenses.

ORDERS

17. Within 30 days of the date of this order, I order the applicant to pay the respondent \$50 for CRT fees.
18. I dismiss the applicant's claims.
19. The respondent is entitled to post-judgment interest, as applicable.
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.

Eric Regehr, Tribunal Member