



# Civil Resolution Tribunal

Date Issued: June 28, 2021

File: SC-2021-000615

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Yeung v. Strijack*, 2021 BCCRT 714

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

WING YI YEUNG

**APPLICANT**

**A N D :**

KENDRA STRIJACK

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Lynn Scrivener

## **INTRODUCTION**

1. This dispute is about the sale of a vintage bag. The applicant, Wing Yi Yeung, purchased a vintage bag from the respondent, Kendra Strijack, for \$3,100. Ms. Yeung

says that the bag Mrs. Strijack shipped to her was not the bag that she purchased. She asks for an order that Mrs. Strijack refund the \$3,100 she paid. Mrs. Strijack says that she shipped the correct bag to Mrs. Yeung and denies that she owes her any money.

2. Ms. Yeung is represented by a friend. Mrs. Strijack is self-represented.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. 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.
5. 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.
6. Parties are told during the CRT's process that they must submit their evidence in English or provide an English translation. Some of the evidence Ms. Yeung submitted contains text that is in a language other than English, and no translation has been

provided as required by CRT rule 1.7. I am unable to consider the portions of evidence for which no translations were provided.

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 Mrs. Strijack breached the parties' contract, and if so, what is the appropriate remedy.

## **EVIDENCE AND ANALYSIS**

9. As the applicant in a civil proceeding, Ms. Yeung must prove her claims on a balance of probabilities. The parties provided evidence and submissions in support of their respective positions. While I have read all of this information, I will refer to only what I find relevant and necessary to provide context for my decision.
10. The parties agree that Ms. Yeung purchased a vintage designer belt bag from Mrs. Strijack for \$3,100. As Ms. Yeung lives in another jurisdiction, Mrs. Strijack shipped the bag to her through a courier company, DHL, that she says Ms. Yeung specifically requested. Before she shipped the package, and also at Ms. Yeung's request, Mrs. Strijack sent Ms. Yeung a photo of it. The photo showed a cardboard box sealed with clear tape that was placed over a white DHL label showing Ms. Yeung's name and address.
11. On January 15, 2021, DHL delivered a package bearing Ms. Yeung's name to a different address. On January 19, 2021, DHL retrieved this package and delivered it to Ms. Yeung. Ms. Yeung says that the package contained a bag that was similar to the belt bag she purchased, but not exactly the same. She sent a photo to Mrs. Strijack, who agreed that the bag in the photo was not the bag she sent.

12. In an email exchange, DHL advised Ms. Yeung that her address appeared on the waybill and invoice, but the package arrived at its warehouse with a different address on the label. DHL stated that it contacted the individual who received the package in error to see if they had the bag, but they did not.
13. DHL sent Ms. Yeung a photo of the package when it arrived at its warehouse in her jurisdiction. Ms. Yeung replied in a January 28, 2021 email that she was sure that the package she received was not the same package that Mrs. Strijack originally sent. DHL stated that it had no record of Mrs. Strijack requesting a change to the delivery address and could not say how a different address ended up on the package. DHL advised Ms. Yeung to resolve the issue with Mrs. Strijack.
14. Ms. Yeung says that Mrs. Strijack is responsible for her claimed damages as she put the wrong address on the label and put the wrong bag in the package. Ms. Yeung's position is that Mrs. Strijack breached their contract by failing to deliver the bag to her.
15. Mrs. Strijack says she sent the correct item to the correct address and that she is not responsible for DHL's "ineptitude". Mrs. Strijack suggests that "someone on their end" took the bag she shipped. DHL is not a party to this dispute, and Ms. Yeung's claims are against Mrs. Strijack alone.
16. Although there is no dispute that the parties had an agreement for the sale of the bag, the terms of that agreement are not clear. Copies of text messages the parties exchanged confirm that Ms. Yeung requested that the bag be shipped using DHL. However, the messages do not show who was responsible to pay for the shipping costs. Further, neither party made submissions about whether Mrs. Strijack had an obligation to deliver the bag to Ms. Yeung, or whether her obligation simply was to deliver the bag to DHL as Ms. Yeung requested. There is also no indication of whether there was insurance coverage on the package or, if so, who paid for it.
17. Based on the evidence before me, I am unable to determine whether the parties agreed that Mrs. Strijack or Ms. Yeung would bear responsibility for the delivery of

the bag. I find that Ms. Yeung has not met her burden of proving the terms of the agreement.

18. Ms. Yeung made specific claims that Mrs. Strijack put the wrong address on the label and put the wrong bag in the package. After considering the available evidence, I find that these claims have not been established.
19. In considering Ms. Yeung's claim that Mrs. Strijack put the wrong address on the label, I note that the address on the label in Mrs. Strijack's photo of the box matches the address on the invoice and the copy of the waybill DHL sent to Mrs. Yeung. As noted, DHL has no record of Mrs. Strijack requesting a change to the delivery address. The evidence before me does not prove that Mrs. Strijack could have changed the address without DHL being aware of it or issuing a new invoice or waybill. I find that the evidence does not support the conclusion that Mrs. Strijack changed the label on the box to show an incorrect address.
20. Turning to the claim that Mrs. Strijack put the wrong bag in the package, I have compared the box shown in Mrs. Strijack's photo and the photo of the box that arrived at DHL's warehouse. Although both photos show cardboard boxes, the box shown in Mrs. Strijack's photo had fragments of old labels stuck to it, irregular areas where tape appears to have been removed previously, and ink markings that are not present in DHL's photo. In addition, the photo taken by DHL shows a box that is a different colour, is sealed with much more clear tape, and with the edges of the flaps in different positions than those shown in Mrs. Strijack's photo. Based on the evidence before me, I conclude that the photos are of two different boxes. This finding is consistent with Ms. Yeung's January 28, 2021 statement that the box she received was not the box Mrs. Strijack sent.
21. Given that the box that arrived at DHL's warehouse is not the same box as the one packed by Mrs. Strijack, I find that Ms. Yeung has not established that Mrs. Strijack is responsible for its contents. Therefore, the fact that the package that arrived at Ms. Yeung's address did not contain the bag she expected does not establish that Mrs. Strijack failed to ship the correct bag.

22. While I accept that something occurred to disrupt the delivery of the package to Ms. Yeung, I find that Ms. Yeung has not met her burden of establishing that Mrs. Strijack breached their agreement, and dismiss her claim for damages.
23. Under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Ms. Yeung was not successful, I dismiss her claim for reimbursement of CRT fees.

## **ORDER**

24. I dismiss Ms. Yeung's claims and this dispute.

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Lynn Scrivener, Tribunal Member