



# Civil Resolution Tribunal

Date Issued: July 12, 2021

File: SC-2021-000189

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sahota v. Hinds*, 2021 BCCRT 761

BETWEEN:

BALIHAR SAHOTA

**APPLICANT**

AND:

KIMBERLY HINDS

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This small claims dispute is about a motor vehicle accident that happened on February 20, 2020 in Surrey, BC.

2. The applicant, Balihar Sahota, says the respondent, Kimberly Hinds, rear-ended his truck. Ms. Hinds says Mr. Sahota rolled backwards into the front of her vehicle. The parties disagree about whether there was an independent witness to the accident.
3. Mr. Sahota seeks \$5,000 for allegedly increased insurance premiums. He represents himself.
4. Ms. Hinds is represented by an employee of her insurer, the Insurance Corporation of British Columbia (ICBC). I infer that ICBC determined that Mr. Sahota was 100% at fault for the accident. Mr. Sahota initially named ICBC as a respondent to this dispute, but he removed ICBC as a party during the facilitation stage.
5. For the reason that follow, I find Mr. Sahota was 100% at fault for the accident and I dismiss his claim.

## **JURISDICTION AND PROCEDURE**

6. 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.
7. 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, the parties in this dispute call into question each other's credibility. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I find that I am able to assess and weigh

the evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and prompt resolution of disputes, I decided to hear this dispute through written submissions.

8. 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.
9. 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**

10. The issues in this dispute are:
  - a. Who is responsible for the accident?
  - b. What damages, if any, is Mr. Sahota entitled to?

## **EVIDENCE AND ANALYSIS**

11. As the applicant in this civil dispute, Mr. Sahota 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.
12. The parties agreed in a statement of facts that the accident occurred on Fraser Highway near the intersection of 176 Street in Surrey, BC. I find from the unchallenged evidence that Mr. Sahota was driving a dump truck and Ms. Hinds was driving a small SUV.
13. According to Ms. Hinds' ICBC claim report, she was travelling in lane 1 of 2 on Fraser Highway when "TP", which I infer means third party and refers to Mr. Sahota, stopped

suddenly and started to reverse. The report says Mr. Sahota's rear bumper struck Ms. Hinds' front bumper. The report says there was 1 witness, no emergency vehicles and no dash cameras.

14. The evidence before me also includes a March 2, 2020 witness statement provided to or taken by ICBC. It is written from the witness's perspective, but no name or initials are provided. The witness said the accident happened at the intersection of Fraser Highway and 168 Street. I find nothing turns on whether the accident happened at 168 street or 176 street as those streets are consecutive major intersections and the accident undisputedly happened on Fraser Highway.
15. The witness made the following observations about the accident. A small SUV was stopped directly behind a dump truck. The witness was directly behind the SUV. The roadway was "slightly steep." The dump truck rolled backward, and the SUV's reverse lights came on. The witness was able to reverse as there were no vehicles behind the witness. The dump truck rolled into the SUV. The witness provided their information to the SUV driver, Ms. Hinds. The witness had never met either driver.
16. Although the materials do not disclose the witness's name, I accept that the witness statement was supplied to ICBC during ICBC's investigation of the accident.
17. ICBC followed up with the witness on February 17, 2021, for reasons that are not specified but I infer relate to Mr. Sahota's claim that there was no independent witness to the accident. According to ICBC's notes, the witness said when they were talking to the SUV driver, the dump truck driver was in the distance. The witness did not speak to the dump truck driver and did not know if he saw the witness. The witness worked nearby and was on her way to work. She provided her business card to Ms. Hinds.
18. ICBC followed up with Ms. Hinds on the same date. Ms. Hinds said she mentioned to Mr. Sahota that the witness gave her a business card because Mr. Sahota was trying to get her not to make an ICBC claim.

## ***Analysis***

19. Mr. Sahota says Ms. Hinds rear-ended him so he was not at fault. Although Mr. Sahota does not explicitly say so, I find it is implicit in his argument that because his vehicle was struck from behind, there is a presumption of negligence that Ms. Hinds must rebut: *Singleton v. Morris*, 2010 BCCA 48. Generally, the basis for finding the rear-following driver at fault is that they are obligated leave enough following distance to avoid a collision, even if the leading driver makes a sudden stop: *Skinner v. Fu*, 2010 BCCA 321. However, it is not automatic that the rear-ending party is liable for an accident.
20. Mr. Sahota's argument largely hinges on an assertion that there was no witness to the accident. In other words, he says the witness evidence is fabricated and should be given no weight, leaving his word against that of Ms. Hinds.
21. Mr. Sahota says he exited his truck immediately when the accident happened and was the last person to leave the scene, and during that time he did not see any witnesses.
22. Mr. Sahota seeks to show that there was no witness by challenging 2 of the witness's observations. First, Mr. Sahota says contrary to the witness's report, he did not argue with Ms. Hinds. However, he does not deny speaking with Ms. Hinds, and I find the distinction between speaking and arguing insufficient to undermine the witness's evidence.
23. Second, Mr. Sahota says the witness would not have been able to reverse their vehicle as they described because there was a lot of traffic at the time of the accident, which was undisputedly just before 8 a.m. I am not persuaded that the witness would not have been able to reverse their vehicle because even in heavy traffic there may be gaps that allow a driver sufficient space to reverse a few feet.
24. In summary, I find Mr. Sahota has not provided a compelling reason to disregard the witness's evidence. I find that the witness was present and I accept her description of what happened. The witness's evidence is consistent with Ms. Hinds' account that

Mr. Sahota reversed his dump truck into her vehicle. I find Mr. Sahota contravened section 193 of the *Motor Vehicle Act*, which prohibits causing a vehicle to move backwards unless the movement can be made safely.

25. I find that Mr. Sahota has not met his burden of proving that Ms. Hinds was at fault for the accident, so his claim must be dismissed. It follows that Mr. Sahota is not entitled to any damages. Even if Mr. Sahota had been successful, his evidence did not prove that his insurance premiums increased because of the accident, so I would not have awarded \$5,000 in damages in any event.

26. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to recover their CRT fees and reasonable dispute-related expenses. Ms. Hinds was successful but did not pay fees or claim expenses. I dismiss Mr. Sahota's claim for reimbursement of CRT fees.

## **ORDER**

27. I dismiss Mr. Sahota's claims and this dispute.

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Micah Carmody, Tribunal Member