



# Civil Resolution Tribunal

Date Issued: September 16, 2021

File: SC-2021-001139

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hlady v. Evans*, 2021 BCCRT 1006

BETWEEN:

MAUREEN HLADY

**APPLICANT**

AND:

TIMOTHY EVANS

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

## INTRODUCTION

1. This dispute is about the sale of a mobile home in 2014.
2. The applicant, Maureen Hlady, says the respondent realtor, Timothy Evans, failed to ensure the mobile home she purchased in 2014 had the required Canadian

Standards Association (CSA) or Silver Label certifications. Mr. Evans was the seller's listing agent.

3. Mrs. Hlady says she cannot sell her mobile home without the valid electrical certification. She seeks \$5,000 to get her home "electrically certified by an electrical contractor". I note Mrs. Hlady opted not to name the mobile home's sellers as respondents to this dispute.
4. Mr. Evans denies the claim. He says he always ensures mobile homes have the required electrical certification. In any event, Mr. Evans says he was the seller's listing agent and did not represent Mrs. Hlady. He says he is not responsible for the claimed electrical upgrade.
5. The parties are each self-represented.
6. For the reasons that follow, I dismiss Mrs. Hlady's claim.

## **JURISDICTION AND PROCEDURE**

7. 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.
8. 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.

9. 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.
10. 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**

11. The issue in this dispute is to what extent, if any, Mrs. Hlady is entitled to \$5,000 to electrically upgrade and certify her home.

## **EVIDENCE AND ANALYSIS**

12. In a civil proceeding like this one, Mrs. Hlady as the applicant must prove her claims on a balance of probabilities (this means “more likely than not”). 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.
13. As mentioned, Mrs. Hlady purchased a mobile home in 2014. The Contract of Purchase and Sale states that Mr. Evans, who was licensed through B.C. Realty Match, represented the seller. Mrs. Hlady was represented by a different realtor from Royal LePage. The sale was conditional on a home inspection. The parties agree Mrs. Hlady had the home inspected prior to purchase. The inspection report is not in evidence.
14. The parties agree that mobile homes are required to display a CSA sticker or Silver Label from Technical Safety BC. Mrs. Hlady says the mobile home never displayed a CSA sticker, which Mr. Evans disputes. Mrs. Hlady also says the 2 CSA numbers shown in the Contract were never valid. She says she now has to pay to upgrade the electrical so that she can sell her home with the proper certification. She argues that

Mr. Evans should pay the cost to upgrade the electrical because he should have “counseled his sellers to have this certification done before listing in 2014”.

15. Mrs. Hlady argues that the onus and cost of the upgrade should be on Mr. Evans as the seller’s agent and not on her as the buyer. I disagree with Mrs. Hlady’s position. The onus was on Mrs. Hlady as the buyer to verify the information about the mobile home prior to purchase: *Nixon v. MacIver*, 2016 BCCA 8. I find CSA information was attainable through a reasonable inspection.
16. In any event, Mr. Evans was not the seller or Mrs. Hlady’s realtor. I find Mr. Evans’s undivided loyalty was to his own client. I find Mr. Evans had no contractual or fiduciary duty of care towards Mrs. Hlady. I find Mrs. Hlady has established no legal basis to find the seller’s agent, Mr. Evans, responsible for Mrs. Hlady’s electrical upgrades. I find this is so even if the CSA numbers were invalid at the time of sale. I dismiss Mrs. Hlady’s claim.
17. Neither party raised the issue of Mrs. Hlady bringing this claim well after the basic 2-year limitation period in section 6 of the *Limitation Act*. Considering my above conclusion, I find no need to further discuss or decide the limitation issue here.
18. 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. As Mrs. Hlady was unsuccessful, I dismiss her claim for paid CRT fees. I find Mr. Evans is entitled to reimbursement of his paid \$50 CRT fee to set aside a Default Order.

## **ORDERS**

19. Within 15 days of the date of this order, I order Mrs. Hlady to pay Mr. Evans a total of \$50 for the CRT fee.
20. I dismiss Mrs. Hlady’s claims.

21. 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 in effect until 90 days after June 30, 2021, which is the date of the end of the state of emergency declared on March 18, 2020, 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.
  
22. 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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Trisha Apland, Tribunal Member