



Civil Resolution Tribunal

Date Issued: September 16, 2021

File: SC-2021-002131

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *A.R. v. T.A.*, 2021 BCCRT 1007

B E T W E E N :

A.R.

APPLICANT

A N D :

T.A.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about the private sale of an allegedly defective computer graphics card.
2. The applicant, A.R., says she purchased a “like new” computer graphics card from the respondent, T. A., in a private sale. The applicant says she tested the graphics

card at home and found it did not work properly. She claims the respondent misrepresented the card as new, and that it was not suitable for its intended purpose. The applicant claims reimbursement of the \$620 she says she paid for the graphics card.

3. The respondent says she did not sell the graphics card to the applicant but rather her teenaged son (X) did. The respondent also says the graphics card was working fine when X sold it to the applicant.
4. Both parties represent themselves. In the published version of this decision, I have anonymized the parties' names to protect the identity of X, who is a minor.

JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.

8. 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

9. The issues in this dispute are:
 - a. Was the respondent party to the sales agreement?
 - b. If so, is she responsible for any misrepresentation about the graphics card or any breach of an implied warranty of durability under the *Sale of Goods Act*?
 - c. If so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

10. In a civil dispute like this one the applicant must prove her claims on a balance of probabilities (meaning “more likely than not”). I have reviewed the parties’ submissions and weighed the evidence but only refer to that necessary to explain and give context to my decision.
11. The applicant responded to a Facebook Marketplace advertisement for a computer graphics card for sale. She went to the respondent’s home to purchase the card where the respondent and X came to the door. The applicant and respondent showed their ID to each other, at the applicant’s request. The applicant paid \$620 cash for the computer graphics card. She did not test the graphics card before, or at the time of the sale. None of this is disputed.
12. The applicant says she took the card home and found that it crashed her computer and could not run the graphics she wanted it to. She says she sent a Facebook message to “the seller”, who refused to refund her money so the applicant went back to the home at a time when the respondent was undisputedly not there. The applicant says X and a male adult spoke with the applicant but refused to refund her money.

13. It is undisputed that the applicant wrote to the respondent requesting her money back, although that letter was not submitted as evidence. In her March 12, 2021 response letter to the applicant, the respondent denies having anything to do with the sale. She said she was surprised to see the applicant on her doorstep, did not know X was selling the graphics card until that time, and was surprised that the sale was for \$620. The respondent also denies having anything to do with the sale in her Dispute Response filed at the outset of this proceeding.
14. In the first part of her argument, the respondent says she is “a seller of a product that we sold” on Facebook Marketplace and that the applicant “came to buy from us”. I infer the “we” and “us” refers to the respondent and her son X. From these statements, it appears that the respondent acknowledges that she was 1 of 2 sellers of the computer part. I find this inconsistent with her Dispute Response and March 12, 2021 letter to the applicant where the respondent denied having any involvement in the sales agreement. I also find it inconsistent with the second part of the respondent’s argument, which is clearly written by a different person and signed with the name “T.A.”. The second part of the argument describes the applicant’s “transaction with my son”, the conversation between the applicant and X, and describes the graphics card as belonging to X. For these reasons I find the respondent does not acknowledge, but rather disputes that she is a seller of the computer graphics card. So, I must consider whether the respondent is a party to the sales agreement with the applicant. For the below reasons, I find she is not.
15. First, I find it was not the respondent who offered the graphics card for sale on Facebook Marketplace. The advertisement provided by the applicant was listed by AC. In Facebook messages before the sale, AC said they were 15 years old and gave an address which is undisputedly the respondent and X’s address. In her Facebook message to AC after the sale, the applicant told AC that, given their age, she had no legal recourse, aside from going through AC’s parents. AC replied, “go ahead”. Based on the messages, I find it was likely not the respondent who offered the computer graphics card for sale but a 15-year-old teenager at the respondent’s address. In other words, I find AC is likely the respondent’s teenaged son, X. I further find the

applicant knew that X was the seller, given her warning that she would seek recourse from his parents.

16. Second, in her March 12, 2021 letter and her submissions, the respondent says the applicant asked X “\$620?” to which X replied “yes”. The applicant does not dispute this or indicate that she had any conversation with the respondent about price, so I accept it as true. Further, in her March 12, 2021 letter the respondent says the applicant gave the cash money to X and not to the respondent. The applicant does not dispute this and, in her submissions, does not specify who she handed the money to. So, I find it likely that the applicant handed the money to X, who then handed the applicant the computer graphics card.
17. Third, the applicant relies on the fact that the respondent showed the applicant her ID. I do not find that the respondent indicated she was responsible for the sale by showing ID. I do not accept that the applicant asked for ID from “whoever was responsible for the sale”. I find she likely asked the respondent for ID because X had already told the applicant on Facebook messenger that he did not have any ID because he was only 15. Further, I find the simple act of showing ID does not determine that the respondent was a party to the contract.
18. Finally, I find it unlikely that X was acting as the respondent’s agent in negotiating the sales agreement with the applicant as neither X nor the respondent appear to have said that. Further, there is no indication that the respondent had any ownership interest in the computer graphics card. I accept the respondent’s explanation that X purchased the computer, including the graphics card, from his older brother, as it is consistent with what she told the respondent in her March 12, 2021 letter. Further, the applicant does not dispute that the respondent told her this during the sale. So, I find the computer graphics card belonged to X, not his mother.
19. A contract or agreement requires offer, acceptance, and consideration, which means “something of value”. I find the respondent did not make or accept any offer or consideration and so was not party to this sales agreement. As she was not party to the contract, I find the respondent is not responsible for any alleged breach of the

contract, either by misrepresentation or by selling a product unsuitable for its intended purpose.

20. I am unaware of any legal principle that would hold the respondent responsible for a contract entered into by her child. The *Parental Liability Act* addresses a legal guardian's liability for their child's intentional property damage, but not contractual liability, so I find it does not apply in this case.
21. On balance, I find the sales agreement was between the applicant and X, who is not a named party in this dispute. Even if X were a named party, I would find the sales agreement unenforceable against him under section 19 of the *Infants Act*, as he is a minor. Although it is possible to apply to the court for relief from this section, only the BC Supreme Court can provide that relief, not the CRT.
22. 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. As The applicant was unsuccessful in her claims, I find she is not entitled to reimbursement of any CRT fees or dispute-related expenses.

ORDER

23. I dismiss the applicant's claims and this dispute.

Sherelle Goodwin, Tribunal Member