



Civil Resolution Tribunal

Date Issued: December 10, 2021

File: SC-2021-003976

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Williams v. Beverly Hills Motoring Boutiques Inc.*, 2021 BCCRT 1298

B E T W E E N :

DANIEL WILLIAMS

APPLICANT

A N D :

BEVERLY HILLS MOTORING BOUTIQUES INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Laylí Antinuk

INTRODUCTION

1. This dispute is about alleged damage to a tire. The applicant, Daniel Williams, says the respondent, Beverly Hills Motoring Boutiques Inc. dba Integra Tire North Vancouver (Integra), negligently damaged one of his tires during a tire change.
2. Mr. Williams claims \$593.60 as the cost of a new replacement tire.

3. Integra says it did not damage Mr. Williams' tire. However, as a goodwill gesture prior to these proceedings, Integra offered to pay half the cost of a replacement tire. Mr. Williams refused this offer.
4. Mr. Williams represents himself. The owner of Integra represents Integra.
5. As explained below, I dismiss Mr. Williams' claims.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). 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 parties that will likely continue after the CRT process has ended.
7. The CRT has the discretion to decide the format of the hearing. A hearing can occur by writing, telephone, videoconferencing, email, or a combination of these. I have decided that a written hearing is appropriate in this case. I find I am properly able to assess and weigh the documentary evidence and submissions before me. Keeping in mind the CRT's mandate, which includes proportionality and speedy dispute resolution, I see no reason for an oral hearing.
8. The CRT can accept any evidence that it considers relevant, necessary and appropriate, even if the evidence would not be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
9. Where permitted under CRTA section 118, the CRT may order a party to pay money, or to do or stop doing something. The CRT may also make an order that includes any terms or conditions the CRT considers appropriate.

10. Integra provides evidence to show that Mr. Williams posted a customer review about Integra on Facebook. Integra says Mr. Williams' Facebook "rant" has "maligned" Integra and its owner. I find that this amounts to a defamation allegation. Under CRTA section 119, the CRT has no jurisdiction over libel and slander, which includes defamation. So, I will not address the alleged defamation in this decision. In any event, Integra did not file a counterclaim.
11. Integra says it wants the Facebook review removed. This amounts to a request for injunctive relief, which is an order that someone do or stop doing something. My jurisdiction to order injunctive relief under CRTA section 118 is limited to narrow circumstances that I find do not apply to the Facebook review. Even if Integra had filed a counterclaim that did not involve defamation, I have no jurisdiction to order Mr. Williams to remove his review.

ISSUES

12. The issues in this dispute are:
 - a. Did Integra negligently damage Mr. Williams' tire?
 - b. If so, is Mr. Williams entitled to \$593.60 in damages?

EVIDENCE AND ANALYSIS

13. In a civil proceeding like this one, the applicant Mr. Williams must prove his claims on a balance of probabilities. This means Mr. Williams must prove it is more likely than not that Integra negligently damaged his tire, entitling him to \$593.60 in damages.
14. I have read all the parties' evidence and arguments. However, I will refer only to what is necessary to explain my decision.
15. The parties agree that Mr. Williams went to Integra for a seasonal tire change in November 2020. Integra removed his summer tires from his wheel rims and replaced them with his winter tires. The parties also agree that Mr. Williams returned to Integra

about six months later claiming that Integra had damaged one of his summer tires, so it should pay for a replacement tire.

16. Mr. Williams says Integra must have damaged the tire during the tire change. He says he did not notice the damage until six months later because Integra had already bagged his summer tires and put them in his vehicle before he picked up his vehicle. Mr. Williams says he put the bagged summer tires in his garage where they sat for six months. He says he took the bagged tires to OK Tire (OK) six months later for his next seasonal tire change. He says OK noticed the damaged tire before it attempted to replace the winter tires and told him about it. Mr. Williams believes OK did not cause the damage because his winter tires were still on his car, meaning OK had not used its machinery on the damaged tire.
17. Integra says it did not damage the tire. It says the tire's damage is inconsistent with its machinery.
18. To prove negligence, Mr. Williams must show that:
 - a. Integra owed him a duty of care,
 - b. Integra breached the standard of care,
 - c. He sustained damage, and
 - d. Integra's breach of the standard of care caused the damage.

See Mustapha v. Culligan of Canada Ltd. 2008 SCC 27 at paragraph 3.

19. I accept that Integra owed Mr. Williams a duty of care when providing automotive services. I also accept that the tire is damaged. Integra does not dispute either of these two things. However, I find that Mr. Williams has not proven that Integra breached the applicable standard of care, or that any such breach caused the tire damage. My reasons follow.
20. Integra undisputedly offers professional automotive services. Generally, in claims of professional negligence, an applicant must show a breach of the standard of care

though expert evidence. Here, I find expert evidence necessary because the subject matter is technical and outside an ordinary person's knowledge and experience (see *Bergan v. Guliker*, 2015 BCCA 283).

21. I make this finding based on Integra's video evidence showing a technician using Integra's machinery to remove a tire from its wheel. I will call this process tire changeover. It is not like the relatively simple "tire change" process that happens when someone has a flat tire. I find that removing a tire (the rubber part) from its wheel (the metal part) using specialized machinery is technical and outside an ordinary person's knowledge and experience. So, I find that Mr. Williams must provide expert evidence to explain the relevant standard and how Integra's work fell below that standard.
22. To support his claims, Mr. Williams provided an email from OK and an invoice from an independent third tire shop, Kal Tire. I find that this evidence does not meet the CRT's requirements for expert evidence. The CRT's rules say that an expert providing expert evidence must state their qualifications. The invoice does not state the name or qualifications of the person who wrote it. The email is from an OK employee who Mr. Williams says is a manager. However, nothing in the email or other evidence describes this employee's qualifications.
23. In any event, I would not have accepted expert evidence from OK. According to Mr. Williams' own evidence, both Integra and OK had the tires before he discovered the damage. As such, I find that OK is not a neutral third party because it could have damaged the tire. Given this, I would have placed little to no weight on OK's email even if I had evidence of its author's qualifications.
24. This leaves the Kal Tire invoice. Even if it met the requirements for expert evidence, I would place little weight on it. I say this because, based on the invoice date, I find that Kal Tire did not examine the tire until four months after it was at OK's shop. As such, Kal Tire's evidence cannot prove that one tire shop (Integra) caused the damage, not the other (OK).

25. Additionally, the invoice says, “seems like damage from a tire bar slipping and going through sidewall”. I find that this is not a definitive statement about causation. It does not say, for example, that the only way to cause damage like this is during tire changeover. Additionally, no one has explained what a tire bar is or whether Integra’s machines have a tire bar.
26. Integra says the tire damage at issue is inconsistent with its machines. It says it has the “finest machinery” and that dealerships and other automotive shops “sublet tire work to us on a regular basis for difficult tire installations specifically because we have the equipment”. Mr. Williams does not dispute this. So, without evidence to prove otherwise, I find that there are different types of equipment that professionals use to do tire changeovers. Kal Tire’s invoice does not distinguish between types of equipment or say whether Integra’s machinery could have caused the damage.
27. Furthermore, six months passed before Mr. Williams noticed the damage. Mr. Williams says the summer tires sat in his garage during this time. However, he did not provide evidence to show where the tires were stored in the garage, or if that spot was safe, or whether anyone else had access to his garage during those six months. He also did not provide any evidence to show that the tire’s bag was undamaged. Without evidence about the garage’s condition or who else had access to it, or whether the tire’s bag was undamaged, I find that the damage could have occurred in Mr. Williams’ garage.
28. With all this in mind, I find that the objective evidence before me does not, on balance, prove that Integra caused the damage. I find it equally likely that the tire could have been damaged during storage or by OK. In other words, I find that Mr. Williams has failed to prove it is more likely than not that Integra damaged the tire.
29. Taking all this into account, I dismiss Mr. Williams’ claim for property damage. On balance, I find it unproven that Integra damaged Mr. Williams’ tire. As a result, I find that Mr. Williams is not entitled to the claimed \$593.60 in damages.

30. Both parties provided argument and evidence about the value of the tire based on its tread depth. I will not discuss this given my conclusion that Mr. Williams failed to prove that Integra negligently damaged his tire.
31. 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. Integra was the successful party, but it did not pay CRT fees or claim any dispute-related expenses. So, I make no order for reimbursement.

ORDERS

32. I dismiss Mr. Williams' claims and this dispute.

Laylí Antinuk, Tribunal Member