



Civil Resolution Tribunal

Date Issued: December 24, 2021

File: SC-2021-004387

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Coakley v. Geek Workshop Electronics Ltd.*, 2021 BCCRT 1342

B E T W E E N :

DAVID COAKLEY

APPLICANT

A N D :

GEEK WORKSHOP ELECTRONICS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about video camera repairs.
2. The applicant, David Coakley, asked the respondent Geek Workshop Electronics Ltd. (GWL) to repair the admittedly faulty HDMI port of his Sony Camcorder on May 22, 2021. He says a GWL employee further damaged the HDMI port beyond repair,

melted the casing and broke the power port flap while attempting to repair the Camcorder. Mr. Coakley claims \$574.99 as the cost of a replacement Camcorder.

3. GWL denies further damaging the Camcorder's HDMI port but says it discovered the port could not be fixed due to prior damage. GWL acknowledges melting the outside of the Camcorder case and agrees to pay \$50 as compensation for this cosmetic damage. However, GWL says the camera was operating the same before and after the attempted repairs, but for the HDMI port which was faulty when the Camcorder arrived at GWL.
4. Mr. Coakley represents himself. GWL is represented by an owner (IK).

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.

ISSUE

9. The issue in this dispute is whether GWL is responsible for further damaging the Camcorder and, if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Mr. Coakley must prove his claim on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and weighed the evidence, but only refer to that necessary to explain my decision.
11. Mr. Coakley says the HDMI port of his Camcorder "had developed a fault" and that is why he took it to GWL to be repaired. Although Mr. Coakley says he explained the fault to IK, he did not describe the fault in his submissions or submit any supporting evidence of the fault. GWL says only that the HDMI port was not working when it received the camera.
12. Mr. Coakley says IK told him the HDMI port repair was an "easy fix" and could be done "no problem", which IK denies in his submissions for GWL. GWL denies that it agreed to repair the HDMI port, and says it agreed to diagnose the problem to see if it could be repaired.
13. GWL relies on its repair terms and conditions set out on its website. According to a copy of those conditions, GWL agrees to make "all efforts" to repair a customer's device and return it in working condition. GWL submitted a copy of a service ticket it says it provided to Mr. Coakley upon receiving the Camcorder which does not contain the terms and conditions but provides a website address and says that website terms and conditions apply. Mr. Coakley does not dispute receiving the ticket but says he did not agree to the terms and conditions.

14. Terms and conditions on a website can form a contract if the website's owner takes reasonable steps to bring them to a party's attention before the parties enter into a contract (see *Century 21 Canada Limited Partnership v. Rogers Communications Inc.*, 2011 BCSC 1196). Contrary to GWL's argument, I find the service ticket is not "reasonable steps" to bring the service terms to Mr. Coakley's attention. First, the ticket was undisputedly printed and handed to Mr. Coakley which means he was not already navigating GWL's website. Second, although GWL says it had paper copies of the terms available, there is no indication Mr. Coakley was provided or offered a paper copy. Third, it is undisputed that Mr. Coakley was given the service ticket, and thus only became aware of the terms, after he already provided his camera to GWL. So, I find Mr. Coakley did not agree to the terms and conditions which limit GWL's repair responsibilities.
15. That being said, I also note it is up to Mr. Coakley to prove it was more likely than not that GWL "guaranteed" to fix the faulty HDMI port, which I find he has not done. In the absence of any supporting evidence and in the face of GWL's denial, I cannot accept Mr. Coakley's statement that IK agreed to repair the port. Rather, I find it more likely that GWL agreed to attempt to repair the port. So, I find GWL is not contractually obligated to provide Mr. Coakley with a working Camcorder.
16. I now turn to consider Mr. Coakley's claim that GWL's negligent attempt at repairs caused irreparable damage to his Camcorder.
17. In order to establish a claim in negligence, Mr. Coakley must show GWL owed him a duty of care, that its conduct breached the accepted standard of care, and that GWL's actions caused damage that was reasonably foreseeable (see *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27). I find GWL owed Mr. Coakley a duty of care as a customer. I accept the applicable standard of care is that of a reasonable repair technician in the circumstances.
18. As noted, GWL does not dispute that it melted the Camcorder's casing around the HDMI port while attempting to repair the port with a soldering iron. Based on Mr. Coakley's photo, I find a small piece of plastic casing is missing from the HDMI port

area of the Camcorder. As GWL acknowledges it melted this piece of plastic, I find expert evidence is not necessary to prove cosmetic damage to the Camcorder casing.

19. Mr. Coakley also argues that, by using a soldering iron on the Camcorder, GWL further damaged the HDMI port beyond repair. I find video camera damage and repair is beyond common understanding and so requires expert evidence when the damage is not obvious (see *Bergen v. Guliker*, 2015 BCCA 238).
20. Mr. Coakley says an engineering expert examined his Camcorder and told him that if GWL used an excessively high soldering temperature to try to resolder the HDMI mother board with the case still attached, that would cause the damage to the HDMI port.
21. Mr. Coakley submitted a report from David He, with Star Electronics Ltd, dated June 26, 2021. He also submitted several Sony Service and Engineering course completion certificates for Mr. He from 2003 to 2005. Although I do not accept Mr. He is an engineer I accept he is a certified Sony Camcorder repair technician and is qualified under the CRT rules to provide his expert opinion on the Camcorder.
22. In his report, Mr. He says the Camcorder's HDMI port has been "damaged beyond repair". He also says that Mr. Coakley explained the missing case around the port was melted off during a previous repair attempt. However, Mr. He does not say that the same heat that melted the case also damaged the HDMI port. In fact, Mr. He does not provide any opinion about the likely cause of the HDMI port damage, or any specifics about the type of damage he observed. So, I find the report does not support that GWL further damaged the already faulty HDMI port.
23. I find Mr. He's report does not support Mr. Coakley's statement about the soldering heat causing HDMI port damage. I find the second-hand statement does not meet the CRT's criteria for expert evidence and I cannot rely on it. Even if I did accept the second-hand statement, I find Mr. Coakley has not established what an excessively high soldering temperature would be and whether it was likely GWL used excessively high soldering temperature while attempting to repair the HDMI port.

24. GWL provided photos of the HDMI port and mother board, removed from the Camcorder. It says the photos show that the mother board pins are broken, suggesting that the port was pulled from the mother board, and that the port itself has a damaged pin. Mr. Coakley says the photos show a cell phone charging port, rather than his Camcorder HDMI port. Mr. Coakley says he took photos of his camera on the counter at GWL before the attempted repairs but did not submit them as evidence. The 1 photo he did submit of the Camcorder after the repair attempt does not show the face of the HDMI port, so I cannot compare it to GWL's photo. I find Mr. Coakley has not proven GWL's photos are of items other than his Camcorder parts and so has not disproven GWL's possible explanation of the Camcorder damage.
25. To be clear, I do not find that GWL's explanation about the HDMI port damage is more likely. Rather, I find Mr. Coakley has not proven that GWL damaged his HDMI port "beyond repair". First, it is undisputed that the port was already faulty, but Mr. Coakley has not provided any explanation about the extent or nature of that pre-existing fault. Second, although Mr. He says the port is damaged, he does not attribute that damage to GWL's repair attempt or consider the fact that the port was faulty prior to the repair attempt. Third, GWL has provided an alternate explanation about the port damage. So, overall, I find Mr. Coakley has not proven that GWL further damaged the HDMI port.
26. As noted, I do find GWL damaged the camera by melting, and thus removing, a small area of the casing around the HDMI port. In his report, Mr. He says the Camcorder should not be used with the internal circuitry exposed, as the elements could damage the exposed internal workings of the camera.
27. I infer Mr. Coakley argues that the Camcorder is unusable in its current state, without the small part of the plastic case, and so he is entitled to the cost of replacing the camera. GWL says it offered to find a replacement outside casing for the Camcorder, so I infer the case, or at least the missing piece, could be replaced. Mr. Coakley does not dispute this. Mr. He does not address whether the case could be repaired or provide an opinion that the camera must be replaced. So, I find Mr. Coakley has not

proven that he is entitled to the full replacement value for the Camcorder with a damaged casing.

28. I find Mr. Coakley is entitled to some damages to compensate him for the damaged plastic Camcorder case. With no estimates of the cost of repairing that damage, I find he is entitled to \$50, on a judgment basis.
29. The *Court Order Interest Act* applies to the CRT and its application is mandatory in cases like this. I find Mr. Coakley is entitled to pre-judgment interest on the \$50 damages award from when he received his damaged Camcorder on May 23, 2021 to the date of this decision. This equals \$x0.13, for an overall damages award of \$50.13.
30. 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. However, I find the general rule does not apply in this case. I have considered GWL's undisputed statement that it offered to compensate Mr. Coakley \$50 for the cosmetic damage to his Camcorder, prior to the CRT dispute. So, I find Mr. Coakley is no further ahead after filing this dispute. I find he is not entitled to reimbursement of his CRT fees or the \$25 fee he undisputedly paid to obtain Mr. He's expert report.

ORDERS

31. Within 14 days of the date of this order, I order GWL to pay Mr. Coakley \$50.13 in damages.
32. Mr. Coakley is entitled to post-judgment interest, as applicable.
33. I dismiss Mr. Coakley's remaining claims.
34. 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.

35. 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.

Sherelle Goodwin, Tribunal Member