



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Koc v. Wiggins Adjustments Limited*, 2022 BCCRT 93

B E T W E E N :

GUNHAN KOC

APPLICANT

A N D :

WIGGINS ADJUSTMENTS LIMITED and PRECISE PARKLINK INC.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about the use of a vehicle immobilizer device (wheel lock) for an alleged parking violation. The applicant, Gunhan Koc, parked his car in a “courier zone” on private property. The respondent Precise Parklink Inc. (Parklink) patrols the parking area and enforces rules for the property owners. The respondent Wiggins Adjustments Limited (Wiggins) is a collection agency hired by Parklink. Mr. Koc says

that he is a courier, and that Parklink improperly fined him for parking in the courier zone and applied a wheel lock to his car. Mr. Koc says he paid Wiggins \$425 for a Parklink wheel lock removal fee, in part because of allegedly false statements Wiggins made about the debt. Mr. Koc claims the return of this \$425 “unfair payment.”

2. Parklink says that it issued 5 parking tickets over 2.5 months to Mr. Koc for parking violations in the same parking lot. It says it attached the wheel lock on the 5th violation, for improperly parking in the courier zone. Parklink says that Mr. Koc removed the wheel lock himself and damaged it in the process, and that the \$425 fee he paid was compensation for that damage. Wiggins says that it gave Mr. Koc no false information and forwarded the \$425 to Parklink after collecting it from Mr. Koc. The respondents say they owe nothing.
3. Mr. Koc is self-represented in this dispute. The respondents are each represented by an authorized employee or principal.

JURISDICTION AND PROCEDURE

4. 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.
5. 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. Although the parties’ submissions each call into question the credibility of the other party to some extent, I find I can properly assess and weigh the written evidence and submissions before me, and that an oral hearing is not necessary in the interests of justice. In the decision *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always needed where credibility is in issue.

Keeping in mind that the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.

6. 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.
7. 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.
8. Parklink submitted evidence after the deadline, including parking tickets, photos, and other documents, all of which I find are relevant to this dispute. I find the other parties had an opportunity to comment on the late evidence, they did not object to it, and it would not be unfair to allow it. I allow the late evidence.

ISSUES

9. Mr. Koc amended his Dispute Notice to remove one of his original resolution requests, namely an order to recall a credit report of a collection item. So, I find that issue is not before me in this dispute.
10. The sole remaining issue in this dispute is whether Mr. Koc damaged a Parklink wheel lock or owed a removal fee for it, and if not, do the respondents owe him a \$425 payment refund?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, Mr. Koc as the applicant must prove his claims on a balance of probabilities, meaning "more likely than not". I have read all the parties' submissions but refer only to the evidence and arguments that I find relevant to provide context for my decision.

12. As noted, Mr. Koc parked his car in a marked courier zone on private property patrolled by Parklink. This is supported by a July 10, 2020 parking ticket for \$100 in evidence and several undisputed photos of the car, including security camera still images. I find the photos in evidence show that Mr. Koc parked in a spot clearly and prominently marked with parking signs on the building wall in front of the spot. I find Mr. Koc would have seen all of the signs when parking his car. I find that by parking his car next to those signs, he agreed to the terms printed on them.
13. One sign said, “No parking courier zone” and “violators will be ticketed and towed at owners expense” (reproduced as written). Another sign said, “Attention Couriers: All Vehicles MUST Either Display a Valid Courier Pass OR Be Clearly Marked” and “Violators will be ticketed and/or towed at owner’s expense”. A third sign said, “Warning”, “Wheel immobilizer in use”, and “Vehicles in violation will be immobilized” with a phone number to contact for payment and clamp release.
14. In addition to the July 10, 2020 parking ticket, photos in evidence show that a wheel lock was applied to Mr. Koc’s car, along with a warning card prominently placed on the windshield. The card said “Stop”, “This vehicle is illegally parked or has outstanding fines/violations. It has been immobilized”, and “Do not attempt to move damage may occur at owner’s expense”, together with a phone number for “boot release” and payment.
15. Mr. Koc says he is a courier, and that he had a courier tag on his windshield, so he should not have been ticketed or had the wheel lock applied to his car. However, none of the many undisputed photos in evidence, including a close-up photo of the car’s windshield, shows any courier tag, courier pass, or any kind of courier marking on Mr. Koc’s car. On the evidence before me, I find the car was essentially unmarked, and looked like a passenger vehicle for personal use. Parklink says the company Mr. Koc works for is not a courier, which Mr. Koc denies, but I find nothing turns on that because Mr. Koc’s car did not display any required markings identifying it as a courier vehicle. I find the lack of courier markings on the car contravened the parking lot signs, and that this was enough for Parklink to take the enforcement actions shown

on the signs, including ticketing, towing, or immobilizing. Further, as described below, Mr. Koc does not deny receiving 4 previous parking tickets for similar violations in the same parking lot. I find these previous tickets were likely sufficient notice that Mr. Koc's car was not considered a courier vehicle for the purposes of parking in that lot.

16. Mr. Koc says the July 10, 2020 parking ticket was issued by a Parklink employee because of a previous argument with the same employee over previous tickets. Mr. Koc says the employee issued the previous tickets because she said Mr. Koc showed a lack of respect in dealing with her. I find that statement is unsupported by any evidence. Parklink submitted images of previous parking tickets issued because Mr. Koc's car was parked in contravention of posted signage in the same parking area, dated May 28, 2020, May 29, 2020, June 3, 2020, and June 5, 2020. Those parking tickets are supported by photographs showing Mr. Koc's same car parked in the same area. So, I find the evidence does not show that the Parklink employee issued tickets because Mr. Koc showed a lack of respect.
17. Further, I find the only evidence of a possible argument between Mr. Koc and the Parklink employee includes security camera still images showing Mr. Koc taking the employee's ticket book from her on July 10, 2020, followed by the employee leaving the area. According to a statement by that employee and submitted photos, which Mr. Koc does not comment on, I find that Mr. Koc ripped up the ticket book and left it on the ground. Mr. Koc also does not directly deny the employee's statement that she warned him not to park in the courier zone before he parked there and left his car. On balance I find the evidence does not show an argument, but shows actions by Mr. Koc against the employee, apparently in response to the ticket and wheel lock she applied to his car.
18. In addition, even if Mr. Koc had displayed adequate courier markings on his car, which as noted he did not, I find that he moved the car while the wheel lock was still attached to it. I find he did this despite the prominent warning card on the windshield saying not to move the car and the obvious yellow- and red-coloured wheel lock attached to

the car's rear driver's-side wheel. I find Parklink adequately warned Mr. Koc not to move his car, and that any resulting damage to the wheel lock was Mr. Koc's fault.

19. A statement by a witness, UA, said that Mr. Koc showed a windshield courier sticker to the Parklink employee, who refused to remove the wheel lock, so Mr. Koc jacked up the car, removed the wheel lock, and gave it to the employee. However, I place little weight on this statement because it is inconsistent with other evidence. As noted, photos do not show a courier sticker on the car, and UA does not say how he knew there was a courier sticker. Security camera photos show no one immediately adjacent to Mr. Koc and the Parklink employee during their interaction, and UA does not explain how he overheard the conversation between them. Further, I find security camera photos in evidence do not show Mr. Koc jacking up his vehicle or returning the wheel lock to the employee, but they do show him driving away from the parking spot with the wheel lock still attached to his car. Photos also show that the wheel lock's metal handle was intact when the wheel lock was initially attached to the car, but the handle was later broken off. Given the submitted evidence, I find this happened when Mr. Koc drove away with the wheel lock still attached.
20. Having weighed the evidence, I find it does not show that Parklink improperly applied the wheel lock to Mr. Koc's car. I find that Mr. Koc parked in violation of posted signage that clearly indicated cars could be immobilized for violations. I find that Mr. Koc damaged the Parklink wheel lock by driving away while it was still attached, despite clear warnings not to do so. I find the wheel lock damage was entirely Mr. Koc's fault, and that he is liable for it.
21. The parties agree that Mr. Koc paid Wiggins \$425. The submitted evidence does not contain an invoice, receipt, or other documentation verifying the payment's purpose. Mr. Koc says the payment was a wheel lock removal fee. Parklink says it was compensation for damage to the wheel lock. Given that the evidence shows obvious wheel lock damage, and does not show that a wheel lock removal fee was charged, I find that the \$425 payment was for wheel lock damage and not for a removal fee.

22. I find there is no evidence before me showing that the value of the wheel lock damage was a different amount than the \$425 paid by Mr. Koc. Wiggins says, and the parties do not dispute, that it forwarded the \$425 payment to Parklink. On balance I find that Mr. Koc owed Parklink \$425 for wheel lock damage and paid that amount. I find the evidence before me does not show any legal basis for Parklink owing Mr. Koc a refund of that damage payment. So, I dismiss Mr. Koc's claim against Parklink.
23. Turning to Wiggins, it is undisputed that Parklink engaged Wiggins to collect parking fines and other debts owed to Parklink, on Parklink's behalf. Mr. Koc does not deny, and I find, that Wiggins collected the \$425 in wheel lock damages from Mr. Koc as Parklink's agent, and not on its own behalf. Given my finding that Wiggins gave the \$425 to Parklink and Parklink does not owe Mr. Koc a refund, I find that Wiggins, as Parklink's agent, also does not owe Mr. Koc a refund.
24. Mr. Koc says that in the course of collecting the \$425 payment, a Wiggins employee gave him false information, specifically that he could be sent to jail and a lien placed against his belongings for failing to pay. Wiggins denies giving Mr. Koc false information, including threatening jail. I find the evidence does not support Mr. Koc's assertion that Wiggins gave him false information. Further, Mr. Koc does not explain how a false statement from Wiggins would mean it owed Mr. Koc a refund of the \$425 collected, considering my finding above that the amount collected was validly owed to, and forwarded to, Parklink for wheel lock damage.
25. Finally, Mr. Koc also says that he was "forced" to pay Wiggins the \$425 because his "credit report" was unfairly and negatively affected by the debt. I find there is no credit report or any other evidence before me showing that Mr. Koc's credit rating was impacted by Wiggins, or that he was "forced" to pay \$425.
26. Overall, I find the evidence does not show that Wiggins owes Mr. Koc a refund of any portion of the \$425 payment it collected. I dismiss Mr. Koc's claim against Wiggins.

CRT FEES AND EXPENSES

27. Under section 49 of the CRTA, and the 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. Mr. Koc was unsuccessful in his claim, and the respondents did not pay any CRT fees or claim any CRT dispute-related expenses. So, I order no fee or expense reimbursements.

ORDER

28. I dismiss Mr. Koc's claims and this dispute.

Chad McCarthy, Tribunal Member