



Civil Resolution Tribunal

Date Issued: March 4, 2022

File: SC-2021-006776

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Drozdowski v. Strand*, 2022 BCCRT 241

B E T W E E N :

KRZYSZTOF DROZDOWSKI

APPLICANT

A N D :

DOUGLAS STRAND

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about alleged unauthorized use of personal property. The applicant Krzysztof Drozdowski says the respondent Douglas Strand agreed only to drive Mr.

Drozdowski's car from the airport and then park it on Mr. Drozdowski's street, leaving the key with Mr. Drozdowski's landlord. Mr. Drozdowski says when he returned from his trip on September 30, 2019 he discovered that Mr. Strand had instead driven his car 1,600 km while Mr. Drozdowski was away, without authorization. Mr. Drozdowski claims \$1,215 for Mr. Strand's alleged unauthorized use of his car for 27 days at \$45 per day.

2. Mr. Strand says Mr. Drozdowski "gave me the keys" for the car before Mr. Drozdowski's trip. I infer Mr. Strand says he was authorized to use the car and asks me to dismiss the dispute.
3. The parties are each self-represented.

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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Some of the evidence in this dispute amounts to a "he said, he said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find I can fairly hear this dispute based on the submitted evidence and through written submissions.

6. Under CRTA section 42, 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 CRTA section 118, in resolving this dispute the CRT may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.
8. Initially, Mr. Drozdowski claimed \$120 for a parking ticket Mr. Strand received while Mr. Drozdowski was away. Mr. Drozdowski withdrew that claim after Mr. Strand paid the ticket. So, I have not considered that claim in this decision.
9. Mr. Drozdowski claims \$1,215 for Mr. Strand's use of his car in September 2019. However, in his CRT application he wrote he also wants "\$5,000 for theft" and that he wants "this money" donated to St. Paul's Hospital Foundation. I infer the \$5,000 theft allegation refers to 4 furniture legs Mr. Drozdowski says Mr. Strand stole in March 2020. Given Mr. Drozdowski's claim is in fact only for \$1,215, I decline to make any findings or order about the "\$5,000 for theft" request. Under my CRTA section 118 jurisdiction, I also could not order Mr. Strand to pay the \$5,000 as a donation to a non-party St. Paul's Hospital Foundation.
10. Next, Mr. Drozdowski requests that I order Mr. Strand to submit to a polygraph test. Even if that were a suitable tool in a civil proceeding (as Mr. Drozdowski argues), I have no jurisdiction to make such an order under the CRTA or the CRT's rules and so I will not address that issue further.

ISSUE

11. The issue before me is whether Mr. Drozdowski authorized Mr. Strand to use his car while he was away for September 2019, and if not, whether Mr. Drozdowski is entitled to \$1,215 for Mr. Strand's use of the car.

EVIDENCE AND ANALYSIS

12. In a civil claim like this one, as the applicant Mr. Drozdowski has the burden of proving 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. I note Mr. Strand chose not to submit any documentary evidence, despite having the opportunity to do so.
13. In a submitted Statement of Facts, the parties agree:
 - a. Mr. Strand had possession and use of Mr. Drozdowski’s vehicle while Mr. Drozdowski was out of the country from around September 4 to 30, 2019.
 - b. The parties disagree about whether Mr. Strand had permission to use Mr. Drozdowski’s car between September 4 and 30, 2019, besides picking up and dropping off Mr. Drozdowski at the airport.
 - c. In March 2020, Mr. Drozdowski gifted Mr. Strand some used furniture, but the parties disagree about exactly what furniture was gifted.
14. The only documentary evidence Mr. Drozdowski submitted were 4 photos of furniture: a leather sofa bed, a coffee table, a futon, and a kitchen table. I find these photos are irrelevant to the car-use agreement.
15. Mr. Drozdowski argues Mr. Strand stole the furniture legs while Mr. Drozdowski’s belongings were being moved by a professional moving company. There is no remedy sought for the alleged theft of the furniture legs, since the claimed \$1,215 is for Mr. Strand’s use of Mr. Drozdowski’s car. In any event, I also find the photos do not prove Mr. Strand stole Mr. Drozdowski’s furniture legs in March 2020, as alleged. In particular, the photos do not show any missing furniture legs. On that latter issue, I am left with a “he said/he said” situation. Mr. Drozdowski has the burden of proof and I find it unproven that Mr. Strand stole the furniture legs, even if the furniture legs were relevant to the \$1,215 claim for the car’s use.

16. As for the car's use, I similarly find there is an evidentiary tie about whether Mr. Drozdowski permitted Mr. Strand to drive the car for Mr. Strand's own use or whether he told him he must park it and give the key to the landlord. I find either account equally likely. Further, even if Mr. Strand had used the car without authorization, I find the claimed \$1,215 unproven. While Mr. Drozdowski bases this on \$45 per day for the 27 days he was gone, he does not explain this rate. There is no evidence about the car's age or condition. Mr. Strand undisputedly refilled the car with gas before Mr. Drozdowski returned. I find Mr. Drozdowski's damages unproven. Given my conclusions above, I dismiss his claim.
17. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Mr. Drozdowski was unsuccessful, so I dismiss his \$25 dispute-related expense fee. Mr. Strand did not pay CRT fees or claim expenses.

ORDER

18. I dismiss Mr. Drozdowski's claims and this dispute.

Shelley Lopez, Vice Chair