



Civil Resolution Tribunal

Date Issued: April 12, 2022

File: SC-2021-007396

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Singh v. City of Langford*, 2022 BCCRT 422

B E T W E E N :

HARINDER PAL SINGH

APPLICANT

A N D :

CITY OF LANGFORD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about car damage caused by a rock. The applicant, Harinder Pal Singh, says the respondent, City of Langford (City), failed to keep the road clear of construction debris, including the rock. Mr. Singh claims \$800 for the estimated cost of wheel rim repairs and wheel realignment, and \$200 for repairs already done.

2. The City denies liability. It says Mr. Singh's claims would, in essence, unreasonably require the City to insure drivers for all damage caused by road debris. The City also says the rock's origin is unknown, but if it came from a nearby construction or industrial site, then a third party should be liable.
3. Mr. Singh represents himself. The City's director of finance, Michael Dillabaugh, represents the City.
4. For the reasons that follow, I dismiss Mr. Singh's claims.

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 the City breached its obligation to maintain the road, and if so whether Mr. Singh is entitled to the claimed damages.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant Mr. Singh must prove his claims on a balance of probabilities. This means 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.
11. I begin with the undisputed background. In August 2021 at around 9:45 p.m., Mr. Singh was driving his car in the City on Millstream Road near the Bear Mountain Parkway. Dash camera footage shows he was driving at night on a road section with only 1 lane each way.
12. The footage shows a light-coloured rock rested on the right side of Mr. Singh's single lane. Based on the footage I find it was likely around the size of a baseball. The rock was by itself and not part of a pile of debris. Mr. Singh drove over it, causing the car to shake. It is undisputed that Mr. Singh could not have reasonably avoided the rock, and that it caused damage to his car tire and alloy rim.
13. I find the evidence does not show with certainty the rock's origin or how long it was on the road. I discuss this further below.

Did the City breach its obligation to maintain the road?

14. The applicable law is set out in *Craigie v. Lehigh Hanson Materials Limited*, 2020 BCSC 12 at paragraphs 62 to 66. A municipality like the City is liable for the

negligence of its employees or any contractors engaged to keep the roadways properly maintained and repaired. Its duty is to use reasonable care to keep its streets in a reasonably safe condition for ordinary travel by persons exercising ordinary care for their own safety. The municipality is not required to be an insurer of travellers.

15. Further, as stated in *Craigie*, policy decisions are generally immune from tort liability. These decisions typically involve allocation of resources or budgetary considerations. In contrast, operational decisions are not immune and are usually the product of administrative direction, expert or professional opinion, technical standards or general standards of reasonableness. Liability can also be imposed on a party who has voluntarily undertaken to do something they were not otherwise obliged to do.
16. The parties did not provide specific submissions on whether the City's actions were policy or operational in nature. Based on Mr. Singh's submissions, I find he says the City's actions were operational and fell below the standard of care.
17. I turn to the evidence. The City provided a copy of its road maintenance contract with the Victoria Contracting & Municipal Maintenance Corporation. Mr. Singh did not allege that the contractor breached the contract or otherwise comment on it. He instead relied on several daylight photos of the road where the accident occurred. The photos show that the road was clear of debris. In some photos rocks and dirt were, at most, on the edge of the road's shoulder. So, I find the photos provide little support for Mr. Singh's claims that the City negligently failed to maintain the road.
18. Mr. Singh points out that many photographed areas do not have a safety fence to prevent the debris from entering the road. However, as the photographs show the road was clear of debris, I find it unproven that the City should have erected more fencing. Mr. Singh says another photo shows a safety fence near the accident that was built after Mr. Singh applied for dispute resolution with the CRT. I find this alone falls short of proving negligence by the City.
19. Further, as noted earlier, the evidence does not explain the rock's origin. The City's undisputed submission is that different construction contractors operate in the area,

as does an active rock mine. Mr. Singh did not provide any evidence to rule out the possibility that a third party dropped the rock while transporting it shortly before he collided with it. I would find the City not negligent in such a scenario because deciding otherwise would hold the City to an unreasonably high standard. Further, there is no evidence that the City ignored any reports about the rock prior to the accident.

20. Mr. Singh says the City should find out where the rock came from. However, as stated above, Mr. Singh ultimately bears the burden of proof. Given this, I find it unproven that the City's negligence caused the accident. For all those reasons, I dismiss Mr. Singh's claims.

21. 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. I see no reason in this case not to follow that general rule. I dismiss Mr. Singh's claims for reimbursement. The City did not claim for any specific dispute-related expenses.

ORDER

22. I dismiss Mr. Singh's claims and this dispute.

David Jiang, Tribunal Member