



# Civil Resolution Tribunal

Date Issued: April 20, 2022

File: SC-2021-008057

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gilding v. JBE Home & Auto Limited*, 2022 BCCRT 453

BETWEEN:

DAVID GILDING

**APPLICANT**

AND:

JBE HOME & AUTO LIMITED

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about allegedly defective steel wheels. The applicant, David Gilding, purchased the wheels from Canadian Tire online and had the respondent, JBE Home & Auto Limited (JBE), install them on his vehicle. It appears JBE operates a Canadian Tire in Abbotsford. Mr. Gilding says the wheels are defective and Canadian Tire will

not repair or replace them under warranty, so he claims a \$288.25 refund from JBE. JBE says Mr. Gilding selected the wheels himself and it installed them as requested. JBE also says there is no evidence the wheels are defective, and asks that this dispute be dismissed.

2. Mr. Gilding is self-represented. JBE is represented by its president, Brad Elliott.

## **JURISDICTION AND PROCEDURE**

3. 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
4. Section 39 of the CRTA says that 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.
5. Section 42 of the CRTA says that 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.
6. 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**

7. The issue in this dispute is whether the wheels installed on Mr. Gilding's vehicle were defective, such that Mr. Gilding is entitled to a \$288.25 refund for their purchase.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, as the applicant, Mr. Gilding must prove his claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
9. It is undisputed that at some point in early 2020, Mr. Gilding purchased 4 new steel wheels for his 2002 Toyota Echo from Canadian Tire online. Mr. Gilding says these wheels were recommended by Canadian Tire's online website, and provided a screenshot taken June 17, 2021 that says "This product fits your 2002 Toyota Echo".
10. On March 27, 2020, JBE installed the 4 wheels on Mr. Gilding's vehicle. The total charge for the wheels and installation is the claimed \$288.25. Mr. Gilding says "shortly after this service", he complained of a "rotational noise and squeak" while driving, and returned to JBE, which advised him it was the fit of Mr. Gilding's hubcaps. Mr. Gilding says removal of the hubcaps did not remedy the issue. In any event, neither party provided any documentation about these alleged visits after the initial installation.
11. The next visit that is documented is when Mr. Gilding returned to JBE to have his seasonal tires changed and balanced in February 2021, nearly 11 months after the wheels' installation. At some point after this February 2021 visit, JBE asked Mr. Gilding not to return to its store for service due to a number of complaints Mr. Gilding made.
12. As a result, Mr. Gilding took his vehicle to Canadian Tire Langley (CTL) to have his wheels examined. In a May 18, 2021 invoice, CTL noted that all tires had been rebalanced, the left side wheels were "out of balance", and the right side wheels had a "slight bend/wobble", with the right rear being the worst.

13. It is undisputed that as a result of CTL's findings, Mr. Gilding requested a warranty refund or service, which was ultimately denied due to the passage of time. JBE's warranty is "1 year or 20,000km exchange warranty for parts only" when installed by Canadian Tire. Although over 1 year had passed, Mr. Gilding says he was under the 20,000km limit, so he says the wheels should have been covered under warranty. Because of my conclusions below, I find nothing turns on the warranty's interpretation, so I have not dealt with it here.
14. In support of his claim that the wheels are defective, Mr. Gilding submitted an online article from an engineering consultant about the difference between lug-centric and hub-centric wheels. Mr. Gilding argues that JBE should have notified him that the wheels he bought were lug-centric, while his vehicle manufacturer's recommended wheels are hub-centric. Mr. Gilding also argues the article proves that the improper use of lug-centric wheels installed by JBE caused the wheels' alleged noise and bends.
15. In contrast, JBE says bends or wobbles in a wheel could have been caused by the vehicle hitting a curb or pothole, and if a bend or wobble was due to manufacturing, it would have been noticed during the installation and balancing process. JBE also says lug-centric wheels are a suitable and widely-used alternative to hub-centric wheels.
16. The article states using lug-centric wheels on vehicles with an original hub-centric design can deform lugs leading to vibrations and worn holes, leading to lug or bolt failure (my emphasis added). The article does not say this will happen, and does not say that using lug-centric wheels on a hub-centric vehicle will cause "bends" or "wobbles" in the wheel. The article also states that aftermarket wheel manufacturers typically sell lug-centric wheels because they will work on a wider variety of vehicles, consistent with JBE's submissions about their use.
17. I find the questions of whether Mr. Gilding's wheels were defective from the outset, or what the ultimate cause of the bend/wobble in some of the wheels was, are technical matters that are beyond common understanding. When an issue is outside

the knowledge and expertise of an ordinary person, expert evidence is generally required. I find the article Mr. Gilding submitted does not answer the questions above, whether I accept it as expert evidence or not. On balance, I find Mr. Gilding has not proven the cause of the right wheels' bend/wobble was due to a defect in the wheels or due to installation by JBE.

18. Mr. Gilding also says JBE has failed to meet its obligations under the *Sale of Goods Act* (SGA) section 18 as a supplier of goods. SGA section 18(a) implies a warranty that the goods are fit to be used for their intended purpose. Section 18(b) implies a warranty that the goods sold will be of merchantable quality. Section 18(c) implies a warranty that the goods will be durable for a reasonable period of time under normal use.
19. I find JBE has not breached any of the implied warranties in SGA section 18, for the same reasons noted above. Specifically, I find Mr. Gilding has not shown the wheels he purchased and had JBE install were unfit for their intended purpose as wheels or that the wheels were defective and therefore not of a merchantable quality. Also, Mr. Gilding undisputedly drove on the wheels for at least 14 months and over 17,000km after installation, so I find they were durable. So, I find JBE has not breached SGA section 18 as alleged by Mr. Gilding.
20. I turn to the issue of whether JBE misrepresented the wheels' compatibility with Mr. Gilding's vehicle. Mr. Gilding argues Canadian Tire's website should not have recommended the wheels for his vehicle, and that JBE should have refused to install them on his hub-centric vehicle. First, there is no indication JBE, an individual owner of a standalone Canadian Tire store in Abbotsford, has anything to do with the Canadian Tire website. Second, as noted above, JBE's evidence is that it is common practice to use lug-centric wheels on hub-centric designed vehicles. In the evidence before me, the only representation made was that the wheels would "fit" a 2002 Toyota Echo.
21. For these reasons, I find Mr. Gilding is not entitled to a refund for the wheels. I dismiss his claim.

22. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As Mr. Gilding was not successful, I find he is not entitled to reimbursement of his paid tribunal fees. JBE did not pay tribunal fees or claim any dispute-related expenses.

## **ORDER**

23. I order Mr. Gilding's claims, and this dispute, dismissed.

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Andrea Ritchie, Vice Chair