



Civil Resolution Tribunal

Date Issued: May 4, 2022

File: SC-2021-008222

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ngoc v. Everest North Vancouver Services Inc.*, 2022 BCCRT 526

B E T W E E N :

CUONG QUOC NGUYEN NGOC

APPLICANT

A N D :

EVEREST NORTH VANCOUVER SERVICES INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, Cuong Quoc Nguyen Ngoc, also known as Simon Ngoc, alleges the respondent, Everest North Vancouver Services Inc. (Everest), damaged his car's

fuel line and fuel filter during an oil change. Everest operates a Mr. Lube franchise. Mr. Ngoc claims \$3,000 in damages, including for replacement parts and labour, time spent and mental distress.

2. Everest says Mr. Ngoc supplied the fuel filter and otherwise denies any negligence during its oil change, as discussed below.
3. Mr. Ngoc is self-represented. Everest is represented by an employee or principal, BJ.

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). CRTA section 2 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. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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.
6. CRTA section 42 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.

ISSUE

8. The issue in this dispute is whether Everest damaged Mr. Ngoc's vehicle's fuel line and filter during its oil change, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant Mr. Ngoc must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all the submitted evidence and arguments but refer only to what I find relevant to provide context for my decision. Significantly, Mr. Ngoc chose not to submit any documentary evidence or written arguments, despite having the opportunity to do so.
10. As noted above, Mr. Ngoc alleged in the Dispute Notice that started this proceeding that Everest damaged his fuel filter and fuel line when performing an oil change.
11. I turn first to the applicable law. To prove liability in negligence, Mr. Ngoc must show that Everest owed him a duty of care, that Everest breached the standard of care in performing the oil change, that Mr. Ngoc sustained a loss (damages), and that Everest's breach caused the loss: *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.
12. It is undisputed Everest owed its customer Mr. Ngoc a duty of care. What is disputed is whether Everest breached the standard of care or whether Mr. Ngoc sustained any damages.
13. In short, Mr. Ngoc alleges the mechanic was inexperienced and broke a fuel line while trying to remove the fuel filter. Mr. Ngoc says the technician chopped off the

original part and inserted a rubber hose, without consulting Mr. Ngoc. However, Mr. Ngoc does not explain why the replacement hose (line) caused him any damages.

14. Mr. Ngoc also did not say what he had or has to pay to replace a fuel line and fuel filter. He did not provide any breakdown for his claimed \$3,000. He submitted no evidence showing his vehicle's fuel line and fuel filter were damaged or that there was a hose improperly inserted, such as through photos or an opinion from a mechanic.
15. Everest says Mr. Ngoc supplied the fuel filter himself, which I accept as it is undisputed. Everest denies any negligence in conducting its oil change although it acknowledges there were some difficulties removing Mr. Ngoc's old fuel filter and a rusted bolt was stuck to the bottom inlet line and that Everest's technician installed a repair line at no charge as a courtesy. The Everest technician wrote he checked everything and Mr. Ngoc left only to return almost 2 weeks later complaining about the fuel line. The technician wrote there was no issue with the repair line on investigation. I accept this evidence, as Mr. Ngoc did not address it or provide any contrary evidence. The burden is on Mr. Ngoc to prove negligence and I find he has not done so.
16. Everest submitted an expert opinion from Douglas Lam with Exceltec Auto Services (Exceltec). Mr. Lam is a licensed mechanic and has been in the automotive industry for over 5 decades. I accept he is qualified under the CRT's rules to give an opinion about the oil change here. Mr. Lam addressed the technician's approach to the oil change and decision to install a repair line. Given my findings above I do not need to address this report in any detail other than to say Mr. Lam found the technician's approach reasonable and I accept his uncontradicted expert opinion.
17. So, given all the above I dismiss Mr. Ngoc's claim as unproven.
18. 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. Neither Mr. Ngoc nor Everest paid any CRT fees. Everest claims

\$395.50 in dispute-related expenses, for the Exceltec expert report. I find it was appropriate for Everest to obtain this report in the circumstances and the amount is reasonable and supported by an invoice. I order Mr. Ngoc to reimburse Everest the \$395.50.

ORDERS

19. Within 21 days of this decision, I order Mr. Ngoc to pay \$395.50 in dispute-related expenses for Exeltec's expert opinion. I dismiss Mr. Ngoc's claims.
20. Everest is entitled to post-judgment interest, as applicable.
21. 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.
22. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of BC. 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 BC.

Shelley Lopez, Vice Chair