



# Civil Resolution Tribunal

Date Issued: May 10, 2022

File: SC-2021-007962

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shabbir v. British Columbia Rapid Transit Company Ltd.*,  
2022 BCCRT 554

B E T W E E N :

MUHAMMED SHABBIR

**APPLICANT**

A N D :

BRITISH COLUMBIA RAPID TRANSIT COMPANY LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. This dispute is about an alleged personal injury occurring on November 9, 2019 at the Columbia Skytrain Station, which is operated by the respondent, British

Columbia Rapid Transit Company Ltd. The applicant, Muhammed Shabbir, says “one big square black object” fell on him from behind, while he was stepping down a staircase. The applicant says this resulted in injuries to his right shin, toe, neck, shoulders, and arms. He claims \$5,000 in damages, including for lost income, medical expenses, and pain and suffering.

2. The respondent says an unknown individual was ascending a staircase at the station, carrying a plastic bag with a speaker inside. The respondent says the plastic bag broke and the speaker fell down the staircase, making contact with the applicant who was standing around the bottom of the staircase. The respondent denies any negligence or statutory liability.
3. The applicant is self-represented. The respondent is represented by an employee.

## **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 the respondent is responsible for the speaker falling on the applicant at the Skytrain Station, and if so, to what extent has the applicant proved his claimed damages.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, the applicant 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.
10. The background facts are undisputed. On November 9, 2019, the applicant was at the bottom of a staircase at the Columbia Skytrain Station. An unknown individual was at the top of the staircase, heading down the stairs, with a speaker in a black plastic bag. About halfway down the staircase, the bag broke. The speaker fell down the stairs and hit the applicant in the shin.
11. At the outset, contrary to the respondent’s unsupported assertion in its Dispute Response filed at the outset of this proceeding, I find no evidence the applicant could have avoided the speaker hitting him, given the speed it fell down the stairs. I note the respondent did not pursue this argument in its later submissions.

12. I find this dispute turns on whether anything the respondent did or did not do resulted in the applicant's claimed injuries. I find the answer is no. My reasons follow.
13. This is essentially a negligence claim. To prove negligence, the applicant must show that:
- a. The respondent owed him a duty of care,
  - b. The respondent breached the standard of care,
  - c. The applicant sustained damage, and
  - d. The respondent's breach of the standard of care caused the damage.

*See Mustapha v. Culligan of Canada Ltd. 2008 SCC 27 at paragraph 3.*

14. I accept the respondent transit provider owed its customers and commuters a duty of care, which is not disputed. At issue in this dispute is whether the respondent breached the standard of care.
15. Under the *Occupier's Liability Act*, the respondent was required to take reasonable steps in the circumstances to ensure the public was reasonably safe while on the respondent's property. Essentially, the applicant's submission is that the respondent should have safety measures in place to force commuters to bring large objects in a secured box.
16. The respondent says thousands of passengers travel through its Skytrain system daily, carrying all manner of objects. The respondent says it cannot reasonably police what every passenger carries. The applicant submitted no case law or other legal authority that would establish the respondent's liability. The respondent also says the speaker was not so large as to be readily perceived a danger.

17. Having reviewed the video of the incident myself, I agree with the respondent. In the circumstances, I find the third party's plastic bag breaking was not something the respondent should have anticipated or prevented. I find the applicant has not proved the respondent breached the standard of care and so I find the applicant has not proved negligence. It follows that I dismiss the applicant's claim, and so I do not need to discuss his claimed damages in any detail.
18. However, I will say that the applicant submitted only a February 18, 2020 hospital record of admission, but this did not describe the incident or any injuries. The applicant submitted no supporting evidence, such as treatment records, chart notes, or photos, to support his claim. Some of the respondent's evidence contained some treatment records about the applicant, but most of it did not appear related to the November 2019 incident. Based on the video, the speaker only made contact with the applicant's shin. The applicant does not explain how any other part of his body was injured. Similarly, the applicant submitted no evidence of his alleged lost income. I would have dismissed his claim in any event for failure to prove damages.
19. 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. As the applicant was not successful, I dismiss his claim for reimbursement of CRT fees. The respondent did not pay CRT fees and no dispute-related expenses were claimed.

## **ORDER**

20. I dismiss the applicant's claim and this dispute.

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Shelley Lopez, Vice Chair