



Civil Resolution Tribunal

Date Issued: June 8, 2022

File: SC-2022-001411

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Leslie v. Victoria Air Maintenance Ltd.*, 2022 BCCRT 673

B E T W E E N :

WARREN LESLIE

APPLICANT

A N D :

VICTORIA AIR MAINTENANCE LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This is a final decision dismissing this claim as it is out of time under the *Limitation Act* (LA).
2. The applicant, Warren Leslie, hired the respondent, Victoria Air Maintenance Ltd. (Victoria Air), to perform maintenance and repairs on his airplane, prior to importing

it from Canada to the United States of America in 2019. Mr. Leslie says Victoria Air overcharged him for the work done, did “suspicious work” and flew his airplane without his authorization. Mr. Leslie claims \$5,000 in damages.

3. Victoria Air denies Mr. Leslie’s allegations and says it did nothing wrong. It also says its work was completed and invoiced by October 24, 2019 and that Mr. Leslie took possession of the plane on October 25, 2019. Victoria Air argues Mr. Leslie’s claim is beyond the 2-year limitation set out in the LA and so cannot succeed.
4. Mr. Leslie represents himself. Victoria Air is represented by an owner or employee.

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 is whether the CRT should dismiss Mr. Leslie's claim as out of time under the LA.

EVIDENCE AND ANALYSIS

10. In making this decision I have reviewed the Dispute Notice, the Dispute Response, and the parties' submissions and evidence on the limitation issue.
11. Section 13 of the CRTA confirms that the LA applies to CRT claims. Section 6 of the LA says that the basic limitation period to file a claim is 2 years after the claim is "discovered". At the end of the 2-year limitation period, the right to bring a claim disappears.
12. Section 8 of the LA says a claim is "discovered" on the first day the person knew, or reasonably ought to have known, that the loss or damage occurred, that it was caused or contributed to by an act or omission of the person against whom the claim may be made, and that a court or tribunal proceeding would be an appropriate way to remedy the damage.
13. CRTA section 13.1 says the limitation period stops running after a claim is filed with the CRT. Mr. Leslie filed his CRT dispute application on February 23, 2022. In order for Mr. Leslie's claims to have been filed in time, they must not have been discovered, or discoverable, before February 23, 2020. As explained below, I find this is not the case.
14. Mr. Leslie says he did not discover his claims until October 2021. He says that, prior to that date, he did not have the opportunity to fly the plane very often or inspect the plane's log books in detail.

15. Victoria Air says it invoiced Mr. Leslie on October 22 and 24, 2019 and that Mr. Leslie took possession of the plane on October 25, 2019. As Mr. Leslie does not dispute these dates, I accept them as accurate. So, I find Mr. Leslie had the opportunity to inspect the plane, the logbooks, and the invoices as early as the end of October 2019. Although Mr. Leslie says he only did a “cursory” inspection of the logbooks at that time he did not explain why. I find Mr. Leslie’s decision to not inspect the logbooks thoroughly was his own choice.
16. Mr. Leslie acknowledges that he flew the plane into the United States on October 25, 2019 then again once more before travelling to California in December 2019. He says the second flight ended with an emergency landing due to landing gear problems. Having flown the plane twice and experienced mechanical difficulties with the second flight, I find Mr. Leslie reasonably ought to have known that he had a potential claim against Victoria Air for the plane’s mechanical difficulties so soon after being repaired and serviced.
17. Contrary to Mr. Leslie’s argument, I do not find the Covid-19 pandemic prevented him from accessing the information he needed to discover this claim. I accept Mr. Leslie’s statement that he was in California for the first 8 months of 2020, and again for 8 months in 2021, and that during that time his plane and records were in Washington State. However, as noted, I find Mr. Leslie had access to, and viewed, the plane’s records and flew the plane twice before he even left Washington State. I find Mr. Leslie reasonably ought to have discovered his claim against Victoria Air before the Covid-19 pandemic began. In other words, I do not find that his discovery of this claim was prevented or delayed because of Covid-19 related travel restrictions.
18. On balance, I find Mr. Leslie discovered, or reasonably could have discovered, his claims about overcharges and unauthorized use of the plane, when he viewed the logbooks and invoices in October 2019. I further find he discovered, or could have discovered, any alleged mechanical problems with the plane during his initial flight on October 25, 2019 and certainly during the mechanical difficulties allegedly experienced in the second flight. So, I find Mr. Leslie could have discovered that claim

by December 2019. Overall, I find Mr. Leslie either discovered, or reasonably could have discovered, his claim well before February 23, 2020. So, I find Mr. Leslie's claims were out of time when he filed them on February 23, 2022 and find I must dismiss them.

19. 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. As Mr. Leslie was unsuccessful in his claim, he is not entitled to reimbursement of his paid CRT fees. As the successful respondent, Victoria Air paid no fees and claimed no dispute-related expenses.

ORDER

20. I dismiss Mr. Leslie's claims and this dispute.

Sherelle Goodwin, Tribunal Member