



# Civil Resolution Tribunal

Date Issued: June 9, 2022

File: SC-2021-006144

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sheardown v. 0965658 B.C. Ltd. dba Aldergrove Furniture Warehouse*,  
2022 BCCRT 679

B E T W E E N :

RALPH SHEARDOWN

**APPLICANT**

A N D :

0965658 B.C. LTD. dba ALDERGROVE FURNITURE WAREHOUSE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about 2 beds. The applicant, Ralph Sheardown, purchased the beds from the respondent, 0965658 B.C. Ltd. dba Aldergrove Furniture Warehouse (AFW). Mr. Sheardown says the beds arrived from AFW damaged. He seeks \$450 as compensation for the damage.

2. AFW does not dispute that the beds arrived damaged. However, it disagrees that it should pay. It says Mr. Sheardown unreasonably refused AFW's offer to provide a full refund if Mr. Sheardown returns the 2 beds.
3. Mr. Sheardown represents himself. AFW's director, Tejinder Bains, represents it.
4. For the reasons that follow, I find Mr. Sheardown has proven his claims and make the orders set out below.

## **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 AFW is responsible for damage to the 2 beds and, if so, what remedy is appropriate.

## **BACKGROUND, EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, Mr. Sheardown as the applicant must prove his claims on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and arguments that I find relevant to provide context for my decision. AFW submitted no evidence though it was provided the opportunity to do so.
11. I begin with the undisputed background. On April 6, 2021, Mr. Sheardown purchased a twin-size bed and a double-size bed for a total of \$1,565.76 from AFW. The parties documented their purchase in a written contract and Mr. Sheardown signed it. The contract said that all sales were final and there were no refunds. The contract also said the beds would be ready for pickup on April 28, 2021.
12. The contract had no specific terms about what would happen if the furniture arrived damaged. However, I find it was an implied term that AFW would provide furniture in a reasonably undamaged state.
13. Due to delays the beds arrived at AFW on June 15, 2021. AFW offered to deliver the 2 beds to Mr. Sheardown's residence as compensation for the delays. AFW delivered the beds on June 20, 2021, and left them in Mr. Sheardown's garage. Mr. Sheardown subsequently removed the packing material. The twin bed arrived fully assembled and the double bed was in 2 pieces, as intended.
14. Mr. Sheardown says the 2 beds arrived damaged through no fault of his. I find this supported by the evidence. He provided numerous photos that show scratches and dents in the wood frame of the beds. Some of the boards also appear improperly connected, leaving gaps. Photos also show that 1 of the bedframes was thinly painted so that the underlying wood showed through. Consistent with Mr. Sheardown's

version of events, the parties agree that Mr. Sheardown called AFW on the date of delivery to advise AFW of the damage. Mr. Sheardown also emailed AFW on June 23, 2021. He attached photos of the damage to the beds.

15. Mr. Sheardown documented his calls with AFW in a call log. As AFW does not dispute the log, I find it is likely accurate. On July 8, 2021, an AFW employee spoke to Mr. Sheardown and said AFW would send someone to observe the damage. It is undisputed that it did not do so. I find this was likely because AFW accepted that it had delivered damaged beds. Consistent with this, the call log shows that on August 4, 2021, AFW called and said its employee would pick up the beds and give Mr. Sheardown a complete refund. Mr. Sheardown advised that AFW would need to provide a crane truck to do so because the bed was now located on the fourth floor. AFW did not agree to do so.
16. Given the above, I am satisfied that AFW breached the parties' contract by providing damaged beds. There is nothing in the contract that excludes AFW from liability for providing damaged products. So, the question is what remedy is appropriate.
17. Mr. Sheardown claims for \$450 as damages. He admits the number is "arbitrary". However, AFW did not suggest a more appropriate amount. It says Mr. Sheardown should have returned the beds. However, I find Mr. Sheardown reasonably declined to do so for the reasons that follow.
18. Mr. Sheardown says, and I accept, that he needed the beds to sleep in. So, I find it was reasonable for him to move the beds into his residence. The evidence indicates he moved the beds on June 20, 2021. As noted above, the beds came largely assembled. Mr. Sheardown says this means he had to use a crane truck to move one of the beds to his fourth-floor bedroom. This is supported by a photograph that shows he used the crane truck to lift and move one of the beds. So, I find that returning the beds would likely require renting heavy machinery and other transportation costs. Given that AFW did not agree to remove the beds from Mr. Sheardown's house, I find Mr. Sheardown reasonably rejected AFW's offer of a full refund.

19. Given that Mr. Sheardown has proven AFW breached the parties' contract, and in the absence of a more appropriate number, on a judgment basis I find \$450 is a reasonable measure of damages and order AFW to pay this to Mr. Sheardown.
20. The *Court Order Interest Act* applies to the CRT. I find Mr. Sheardown is entitled to pre-judgment interest on the damages award of \$450 from June 20, 2021, the date of delivery of the 2 beds, to the date of this decision. This equals \$1.96.
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 find Mr. Sheardown is entitled to reimbursement of \$125 in CRT fees. Mr. Sheardown also claims \$13.68 for serving Mr. Sheardown by registered mail. I find this expense was reasonable and order AFW to pay it.

## **ORDERS**

22. Within 14 days of the date of this order, I order AFW to pay Mr. Sheardown a total of \$590.64, broken down as follows:
  - a. \$450 for damages,
  - b. \$1.96 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$138.68, for \$125 in CRT fees and \$13.68 for dispute-related expenses.
23. Mr. Sheardown is entitled to post-judgment interest, as applicable.
24. 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.

25. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. 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 British Columbia.

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David Jiang, Tribunal Member