



Civil Resolution Tribunal

Date Issued: June 28, 2022

File: SC-2021-008263
and SC-2022-000481

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lo v. Sui*, 2022 BCCRT 746

BETWEEN:

PO-CHIEN LO

APPLICANT

AND:

LENA PACKAGING CORP. DBA LENA FULFILLMENT and DANIEL
SUI

RESPONDENTS

AND BETWEEN:

HE SUI

APPLICANT BY COUNTERCLAIM

AND:

PO-CHIEN LO

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about an alleged assault. This decision relates to 2 linked disputes that I find are a claim and counterclaim involving the same parties and same issues, so I have issued one decision for both disputes.
2. In SC-2021-008263, the applicant, Po-Chien Lo, also known as Robert Lo, says he was assaulted by the respondent, Daniel Sui, also known as He Sui. Mr. Sui is an employee or principal of the respondent, Lena Packaging Corp. dba Lena Fulfillment (Lena). Mr. Lo seeks \$5,000 in damages for personal injury resulting from the alleged assault.
3. In SC-2021-000481, Mr. Sui (the applicant by counterclaim) alleges it was Mr. Lo (the respondent by counterclaim) who assaulted him, and seeks \$5,000 in compensation for mental distress relating to the accident.
4. Mr. Lo represents himself, and is a lawyer. Mr. Sui represents himself and Lena.

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 parties to a dispute that will likely continue after the dispute resolution process has ended.

6. 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. Some of the evidence in this dispute amounts to a “he said, he said” scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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.
7. 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.
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.

The CRT’s Small Claims Monetary Limit

9. In his Dispute Notice, Mr. Lo claims \$5,000 for non-pecuniary (pain and suffering) damages, plus \$300 for counselling sessions and \$130 for a counselling report, both of which he claims were “dispute-related expenses”. Later, in his submissions, Mr. Lo increased the value of his claim to \$5,000 in non-pecuniary damages, plus \$500 for future care costs, plus \$460 in dispute-related expenses (for counselling sessions and a report).
10. First, I find the \$300 claim for counselling sessions is a claim for damages, not a claim for dispute-related expenses. Second, the CRT’s jurisdiction over small claims is limited to \$5,000 under CRTA section 118 and the *Tribunal Small Claims Regulation*.

I find that by proceeding through the CRT, Mr. Lo has abandoned any claim he might have above \$5,000, to fit within the CRT's small claims monetary limit. Though I note nothing ultimately turns on the claim's value, given my conclusions below.

ISSUES

11. The issues in this dispute are:

- a. To what extent, if any, is Mr. Lo entitled to \$5,000 in compensation?
- b. To what extent, if any, is Mr. Sui entitled to \$5,000 in compensation?

EVIDENCE AND ANALYSIS

12. In a civil claim such as this, the applicant Mr. Lo must prove his claims on a balance of probabilities (meaning "more likely than not"). Mr. Sui must prove his counterclaim to the same standard. While I have read all of the parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.
13. The background facts are generally not in dispute. On October 27, 2021, Mr. Lo attended at Lena's place of business to serve Lena with court documents related to a different CRT decision involving Mr. Lo's wife. Although the parties spent some time in their submissions discussing the merits of that underlying claim, I find those issues are not before me in these disputes, which are specifically about an alleged assault. Therefore, I have not addressed them.
14. In any event, Mr. Lo says that when he delivered the documents to Lena, Mr. Sui became upset and pushed Mr. Lo out of the warehouse with the assistance of another, unknown individual. Mr. Lo says as a result he suffered pain in his arms and low back, and psychiatric injury.
15. In contrast, Mr. Sui says it was Mr. Lo who pushed Mr. Sui causing him to hit his head on a door frame and fall down. Mr. Sui also says Mr. Lo was acting erratically and spat in Lena's warehouse. Mr. Sui says he suffered mental harm due to the incident.

16. Mr. Lo and Mr. Sui each seek \$5,000 compensation from the other.
17. Mr. Sui submitted witness statements from 5 people, including 3 employees (QQY, H, and SA), 1 customer (SH), and 1 person who shared office space (SJ).
18. Employee SA said on October 27, 2021 a man came into the office and was out of control, yelling, and using abusive language. Employee H said a man came into the warehouse shouting and spitting and started pushing people. Employee QQY said on October 27, 2021 a stranger came in swearing, was asked to calm down but got angrier, tried to spit on Lena's employees, and was forced to leave the premises.
19. In the course of this dispute and after reviewing QQY's statement, Mr. Lo called QQY while she was working at Lena and recorded the conversation. Mr. Lo argues that the conversation proves that Mr. Sui's version of events is "either fabricated or mixed up with another individual". I cannot agree. I find the conversation is consistent with QQY's written statement, which is also consistent with the other 4 witness statements in evidence.
20. SJ works for another company but in Lena's warehouse space. SJ stated that on October 27, 2021 he heard a man yelling, came downstairs and saw Mr. Sui try to push the man out of the building.
21. SH was a customer who was present at Lena's warehouse to pick up orders on October 27, 2021. SH said he heard someone screaming outside when a man came in and spat on the office floor. SH said Lena staff asked the man to leave, but he refused and pushed Mr. Sui into a door frame.
22. Mr. Lo says the witnesses' credibility is "questionable" as they have a "close affiliation" with Lena. I find there is no evidence to support Mr. Lo's assertion. In fact, the statements are consistent with both Mr. Lo's and Mr. Sui's version of events, even to the potential detriment of Mr. Sui.
23. On balance, I find the parties each participated in the altercation. I find the evidence shows Mr. Lo was behaving irresponsibly at Lena's workplace, shouting and spitting,

and that he pushed Mr. Sui. I also find Mr. Sui pushed Mr. Lo when trying to get Mr. Lo to leave the premises. I find that Mr. Lo's and Mr. Sui's injuries, if any, were each caused by their own negligence. I find neither is entitled to damages given their willful participation in the heated exchange. I dismiss the parties' claims in both disputes.

24. 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. Lo and Mr. Sui were both unsuccessful in their respective claims, I dismiss all their claims for reimbursement of tribunal fees and for dispute-related expenses.

ORDERS

25. I dismiss Mr. Lo's claims in SC-2021-008263.

26. I dismiss Mr. Sui's claims in SC-2022-000481.

Andrea Ritchie, Vice Chair