



# Civil Resolution Tribunal

Date Issued: July 4, 2022

File: SC-2021-009543

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kaviani v. ICBC*, 2022 BCCRT 763

**BETWEEN:**

KAMRAN KAVIANI

**APPLICANT**

**AND:**

INSURANCE CORPORATION OF BRITISH COLUMBIA and  
KAL TIRE LTD.

**RESPONDENTS**

---

## REASONS FOR DECISION

---

Tribunal Member:

Eric Regehr

### INTRODUCTION

1. On October 19, 2021, the applicant, Kamran Kaviani, took his car to the respondent, Kal Tire Ltd., for a tire change. Mr. Kaviani alleges that Kal Tire damaged his car during the service, which Kal Tire denies. The other respondent, the Insurance Corporation of British Columbia (ICBC), insures Mr. Kaviani and Kal Tire. ICBC

concluded that Kal Tire did not cause the damage, so Mr. Kaviani had to pay a \$300 deductible when his car was repaired. Mr. Kaviani alleges that ICBC acted in a conflict of interest and did not perform an unbiased investigation of what happened, which ICBC denies.

2. Mr. Kaviani claims \$5,000 for pain and suffering, mental anguish, household expenses, loss of earning capacity, aggravated damages, and punitive damages. The respondents both ask me to dismiss his claims.
3. Mr. Kaviani is self-represented. The respondents are each represented by an employee.
4. For the reasons that follow, I dismiss Mr. Kaviani's claims.

## **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 pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.
9. Mr. Kaviani provided additional evidence after the CRT's deadline. The late evidence is medical evidence, which I find is only relevant to quantifying his damages. Because I have dismissed Mr. Kaviani's claims, I did not need to consider his evidence about damages. So, while I have admitted this evidence, it did not affect the outcome of this decision.

## **ISSUES**

10. The issues in this dispute are:
  - a. Did Kal Tire damage Mr. Kaviani's car?
  - b. Did ICBC fairly and reasonably investigate Mr. Kaviani's claim?
  - c. If so, what remedy is appropriate?

## **EVIDENCE AND ANALYSIS**

11. In a civil claim such as this, Mr. Kaviani as the applicant must prove his case on a balance of probabilities, which means "more likely than not". While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
12. As mentioned above, on October 19, 2021, Mr. Kaviani took his car to Kal Tire to have new tires installed. Mr. Kaviani says that after he picked his car up, he noticed new damage on the car's front right door. It is undisputed that soon after he left, Mr.

Kaviani returned to Kal Tire and spoke to the manager about the damage. The Kal Tire manager told Mr. Kaviani that the damage appeared to be pre-existing.

13. ICBC insures Mr. Kaviani and Kal Tire, who both started claims about the alleged new damage. Mr. Kaviani sent ICBC photos of the damage. ICBC ultimately determined that the photos were inconclusive about the damage's cause. Without any other objective evidence, ICBC concluded that Mr. Kaviani had not proven that Kal Tire caused the damage. ICBC covered the repair under Mr. Kaviani's comprehensive policy, less a \$300 deductible.
14. On October 29, 2021, AMJ Auto Group provided a quote to repair the car's right front fender and door. On November 5, 2021, Mr. Kaviani paid the \$300 deductible.
15. I turn first to Mr. Kaviani's claim against Kal Tire. Mr. Kaviani makes allegations about several aspects of Kal Tire's employees' behaviour on and after October 19, 2021. I find these allegations are ultimately irrelevant to the question of whether Kal Tire damaged his car, which I find is the sole legal basis for Mr. Kaviani's claim against Kal Tire.
16. There are 2 photos of Mr. Kaviani's car, which he says are from before and after the Kal Tire service. Mr. Kaviani provided Kal Tire and ICBC with these photos shortly after October 19, 2021. Mr. Kaviani argues that the 2 photos show "completely different" damage. The photos appear to be digitally zoomed in because they are somewhat grainy. Having reviewed them closely with Mr. Kaviani's detailed submissions in mind, I am unable to conclude that the "after" photo shows any new damage.
17. The other evidence Mr. Kaviani relies on is a March 29, 2022 email from the manager of AMJ Auto Group, Ricky Sandhu. While Mr. Kaviani does not say so explicitly, I infer that he wants to rely on this email as expert evidence under the CRT's rules. Ricky Sandhu's qualifications are not in evidence, but I accept based on his position at AMJ Auto Group that he likely has the experience and training to

assess vehicle damage. Neither respondent disputes this. I therefore accept this evidence as expert evidence.

18. Ricky Sandhu said that the “damage on right fender” was “fresh and related to the claim”, referring to Mr. Kaviani’s ICBC claim. I accept that Ricky Sandhu was likely able to determine that the damage was relatively new when they observed it shortly after October 19, 2021. However, they do not explain how they would know that the damage was caused by Kal Tire and not some other recent incident. In other words, the fact that the damage looked “fresh” when Ricky Sandhu saw it does not prove that the damage occurred at Kal Tire. I find that this email does not help Mr. Kaviani’s claim.
19. Therefore, I find that there is insufficient evidence for me to conclude that Kal Tire damaged Mr. Kaviani’s car during the tire service. I dismiss Mr. Kaviani’s claims against Kal Tire.
20. I turn then to Mr. Kaviani’s claim against ICBC. As Mr. Kaviani’s insurer, ICBC must act properly and reasonably in assigning fault (*Singh v. McHatten*, 2012 BCCA 286, referring to *Innes v. Bui*, 2010 BCCA 322). As part of this obligation, ICBC must act reasonably in investigating a claim.
21. I find that the steps ICBC must take to reasonably investigate an accident depends, in part, on the severity of the accident and the amount at stake. According to ICBC, Mr. Kaviani’s premiums were not affected by the repair, which Mr. Kaviani does not dispute. The damage itself was minor.
22. Mr. Kaviani says that ICBC favoured Kal Tire in its investigation because Kal Tire is a much bigger customer. As a public automobile insurer with a legislated monopoly, I find that ICBC will often be on “both sides” of a dispute of this nature. I find that this alone does not prove that ICBC acted unfairly. On the contrary, I find that ICBC’s claim file shows that it considered the limited information Mr. Kaviani provided and came to a reasonable conclusion on the evidence.

23. Mr. Kaviani also alleges a conflict of interest. He says that it is possible that a Kal Tire employee may have a relationship with an ICBC employee. He provided no evidence in support of this allegation, which I find is speculative. I find that Mr. Kaviani has not proven his claims against ICBC, and I dismiss them.
24. Given my conclusion, I find it unnecessary to review Mr. Kaviani's evidence or submissions about damages.
25. 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. Mr. Kaviani was unsuccessful, so I dismiss his claim for CRT fees and dispute-related expenses. The respondents did not claim any dispute-related expenses or pay any CRT fees.

## **ORDER**

26. I dismiss Mr. Kaviani's claims, and this dispute.

---

Eric Regehr, Tribunal Member