



# Civil Resolution Tribunal

Date Issued: July 22, 2022

File: SC-2021-008571

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hayne v. Audi Canada Inc*, 2022 BCCRT 838

BETWEEN:

ALEXANDER HAYNE

**APPLICANT**

AND:

AUDI CANADA INC. and CAPILANO AUTO GROUP INC.

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

### INTRODUCTION

1. This dispute is about allegedly defective leather seats in a vehicle.
2. The applicant, Alexander Hayne, leased a new 2018 Audi Q7 from the respondent Capilano Auto Group Inc. (Capilano). The applicant says in 2020 or 2021 a portion

the leather on the front driver and passenger seats began to separate from the underlying foam of the seats. The Q7 was covered by a warranty. The applicant made a warranty claim through Capilano. The other respondent, Audi Canada Inc. (Audi), administers the warranty.

3. The applicant seeks \$3,000 or an order that the respondents repair the seats. Audi says the seat damage is consistent with general wear and tear, which the warranty does not cover. Capilano says it is not responsible for Audi's claim denial. Capilano adds that some separation between the leather and underlying foam is necessary for the cooling seats to operate properly. I infer that both respondents ask me to dismiss the applicant's claim.
4. The applicant represents himself. The respondents are each represented by employees. For the reasons set out below, I dismiss the applicant's claim.

## **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 the Q7 seats had a defect in material or work quality that was covered by the warranty.

## **EVIDENCE AND ANALYSIS**

10. 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 considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
11. According to the lease agreement, the applicant leased the Q7 from Capilano in May 2018. The Q7 came with a 48-month or 80,000 km warranty against defects in material and workmanship. The warranty applied for 4 years from the date the vehicle was delivered. There is no dispute that the warranty was still in effect when the applicant brought his Q7 into Capilano to make a warranty claim with 40,187 km.
12. The applicant says the leather seat covering became separated from the "foam structure of the seat" on both the driver and front passenger seats. Capilano undisputedly submitted the necessary information, including photos, to Audi, to make a warranty claim.
13. The warranty covered "any repair or replacement to correct a defect in manufacturer's material and workmanship." Audi denied the warranty claim.

14. The applicant does not say why Capilano is liable for the warranty refusal. The applicant says his “dispute is not really with the Audi Dealership” (which I take to mean Capilano) but with Audi. Given all of this, I dismiss the claim against Capilano.
15. The applicant provided videos showing a hand compressing the seat. All visible stitching is intact. I can see that the leather surface of the seat can be depressed by perhaps up to an inch in the middle. I cannot tell whether the leather has separated from the underlying foam, but the respondents do not dispute that there was separation. What is missing is an explanation of how this slight separation demonstrates a defect in materials or work quality.
16. The applicant provided a photo of the seats of what he says is another 2018 Audi Q7 with the same mileage. The photo does not show whether the leather has separated from the foam, or how much the seat surface can be depressed, so I find it does not assist the applicant.
17. The applicant says he has “researched the internet” and could not find a single incident of anyone else having this problem with a 2018 Audi Q7. I find this does not establish a defect, and in any event the applicant provided no supporting materials.
18. The applicant also says he was told by a member of the “Audi Dealer service department” (which I take to mean Capilano’s service department) that Audi is notorious for denying warranty claims and regularly refers to defects as wear and tear. Even if I were to accept this statement to be true, it would not change the outcome of this dispute. What matters is whether the applicant’s Q7 had a defect in materials or work quality.
19. As noted above, the applicant has the burden of proof. The evidence falls short of establishing a defect in materials or work quality. It follows that I dismiss the applicant’s claim.
20. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to recover their CRT fees and reasonable dispute-related expenses. The respondents

were successful and Audi paid \$50 in CRT fees. I order the applicant to reimburse Audi \$50. I dismiss the applicant's claim for reimbursement of \$75 in CRT fees.

## **ORDERS**

21. Within 14 days of the date of this order, I order the applicant to pay Audi \$50.00 in CRT fees.
22. Audi is entitled to post-judgment interest, as applicable.
23. I dismiss the applicant's claims.
24. 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. 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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Micah Carmody, Tribunal Member