



# Civil Resolution Tribunal

Date Issued: August 31, 2022

File: SC-2021-007220

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Super L' Auto Recyclers (1991) Ltd. v. Salman*, 2022 BCCRT 974

B E T W E E N :

SUPER L' AUTO RECYCLERS (1991) LTD.

**APPLICANT**

A N D :

JAMIL SALMAN

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about the sale of used auto parts. The applicant, Super L' Auto Recyclers (1991) Ltd. (Super), sold the parts to the respondent, Jamil Salman. Super says Mr. Salman charged back his credit card payment for the parts without justification. Super claims for \$5,000 in damages. It says its losses exceed \$5,000

but abandons any claims in excess of that to bring them within the Civil Resolution Tribunal's (CRT's) small claims monetary limit. I break down Super's claims below.

2. Mr. Salman disagrees. He says the parts arrived late and were damaged and defective. So, he says he should not pay for them.
3. An employee represents Super. Mr. Salman represents himself.
4. For the reasons that follow, I find Super has proven part of its claims and make the orders set out below.

## **JURISDICTION AND PROCEDURE**

5. These are the formal written reasons of the 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. Some of the evidence in this dispute amounts to a "he said, they 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38,

the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

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.

## **ISSUES**

9. The issues in this dispute are as follows:
  - a. Did Super breach the parties' contract for used auto parts?
  - b. Are any remedies appropriate?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, Super as the applicant must prove its 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 argument that I find relevant to provide context for my decision. I note that the CRT provided Mr. Salman the opportunity to upload documentary evidence. He chose to only upload a further brief submission in a document and otherwise relied on his arguments in the Dispute Response.
11. I begin with the largely undisputed facts. Mr. Salman purchased used car parts from Super on March 29, 2021. An invoice shows he paid \$1,850.01 for a quarter panel from a Jaguar-brand car, inclusive of tax. It also shows that Super included a headlight with a "broken tab" at no cost. I find the invoice accurately described the

purchase. A receipt shows Mr. Salman paid for the parts the same day using a credit card.

12. Super says Mr. Salman personally viewed the parts on March 30 or 31, 2021. It says that, with Mr. Salman's approval, it loaded the parts onto Mr. Salman's truck and trailer. In contrast, Mr. Salman says he had to wait nearly a month for the parts to arrive. I prefer Super's version of events based on the evidence. The invoice lacks any address under the "Ship To" field. Super also provided a copy of its delivery records from March 26 to April 7, 2021. I find these support Super's position as they omit any reference to delivering parts to Mr. Salman.
13. Mr. Salman says the parts arrived damaged and defective. I discuss whether this was the case below.
14. Around mid-June 2021, Mr. Salman instructed his credit card company to charge back the purchase of the used car parts. There is no evidence that Mr. Salman complained about the parts to Super before doing so.
15. The parties went to commercial arbitration. Super provided a copy of its correspondence with the credit card company. Super's position was essentially the same as in this dispute. It said that Mr. Salman never advised Super that it had any problems with the parts. It also said he did not respond to its 5 attempts to call him. Text messages show Super texted Mr. Salman on June 22, 23, and 25, but he did not respond. Super denied selling faulty parts.
16. On August 3, 2021, the credit card company faxed Super. It advised that Super had lost the arbitration dispute and the chargeback would remain. The fax provided no reasons for the decision.
17. Mr. Salman submits that the arbitration decision resolves the matter. However, I find this unsupported by any evidence. For example, there is no contract in evidence that says the parties agreed to use arbitration to conclusively decide their dispute. The faxed decision lacks such language. The arbitration agreement with the credit card company is not before me. So, I find the arbitration decision is not binding on me.

18. Super applied for dispute resolution in September 2021.

***Did Super breach the parties' contract for used auto parts?***

19. Mr. Salman's primary argument is that the parts arrived damaged and defective. Super disagrees and alleges that Mr. Salman tried selling the same parts on Facebook for \$1,850. It says that contrary to his submissions, Mr. Salman represented that the parts were in good condition.

20. As evidence, Super provided screenshots of Facebook messages from June 2022. He says Super's employee used the depicted pseudonym to pose as an interested purchaser for the parts. The other person was named "Jim", which matches the name Super used for Mr. Salman in its invoice. Mr. Salman did not deny sending the messages. So, I find that Mr. Salman was trying to resell the parts and they were likely in good working order.

21. Mr. Salman submits that the panel was warped, and the headlight would turn on and off unexpectedly. However, he did not provide any evidence to support his submissions. For example, he did not provide any photos to show warping or videos of the headlight malfunctioning. Mr. Salman says he sought help from multiple mechanics about the parts. However, he did not provide any evidence from a mechanic in this dispute. So, I find the alleged defects are unproven.

22. Mr. Salman also alleged that Super failed to include "accurate product information". However, Mr. Salman did not elaborate so I find this unproven as well.

23. Mr. Salman also says he offered to return the parts to Super. However, there is no evidence that he ever returned to Super's address with the parts. There is no evidence he extended such an offer to Super. As noted, I find the Facebook messages show he tried to resell them in June 2022. In any event, I find that Super is entitled to seek an order that Mr. Salman fulfil his obligation to pay for the parts.

24. Given the above, I find that Super provided working parts and fulfilled its obligations under the parties' contract. I find that Mr. Salman breached the contract by charging

back the cost of the purchase without justification. I now turn to the appropriate remedies.

25. As noted above, Super claims \$5,000 as compensation. Super outlined its claims in an invoice dated June 15, 2022. I find the invoice is in substance an outline of its claims in this dispute. From this invoice, I find Super seeks payment of \$1,651.79 to reverse the chargeback for the parts, \$1,650 for payment of seemingly the same parts, \$75 as reimbursement for a chargeback fee from the credit card company, \$400 as compensation for time spent writing to the credit card company, and \$1,200 for time spent preparing for this dispute. Super also included CRT fees on the invoice and GST and PST on all the above-mentioned amounts.
26. Under the March 2021 invoice, I find that Super is owed \$1,850.01 for the parts. This is equal to the claim of \$1,651.79 plus tax. So, I order Mr. Salman to pay this amount. Super did not provide any evidence about the \$75 chargeback fee. So, I do not award this amount.
27. The *Court Order Interest Act* applies to the CRT. Super is entitled to pre-judgment interest on the debt of \$1,850.01 from March 29, 2021, the invoice date, to the date of this decision. This equals \$15.81.
28. Super also seeks \$400 as compensation for time spent writing to the credit card company. However, there is no evidence to show why this amount is appropriate. For example, there is no indication that Super paid this amount as an out-of-pocket expenses. So, I dismiss this claim.
29. 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 Super has proven its main claim and is entitled to reimbursement of \$175 in CRT fees.
30. As noted, Mr. Salman requests \$1,200 for time spent on preparing for this dispute. CRT rule 9.5(5) says that the CRT will not award reimbursement of time spent on a

CRT proceeding except in extraordinary circumstances. I find those circumstances lacking in this dispute. It was not particularly complex and did not involve a large volume of evidence. There is also no evidence to show why \$1,200 is appropriate. So, I dismiss this claim for reimbursement.

31. Finally, aside from what is already included under the March 29, 2021 invoice, I dismiss Mr. Salman's claims for GST and PST as there is no indication he is entitled to GST or PST on any other amounts.

## **ORDERS**

32. Within 30 days of the date of this order, I order Mr. Salman to pay Super a total of \$2,040.82, broken down as follows:
  - a. \$1,850.01 in debt,
  - b. \$15.81 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$175 in CRT fees.
33. Super is entitled to post-judgment interest, as applicable.
34. I dismiss Super's remaining claims.
35. 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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David Jiang, Tribunal Member