



Civil Resolution Tribunal

Date Issued: September 6, 2022

File: SC-2022-001460

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Urban Valley Transport Ltd. v. Hrovat (dba Matts Trailer Sales), 2022*
BCCRT 988

B E T W E E N :

URBAN VALLEY TRANSPORT LTD.

APPLICANT

A N D :

MATEJ HROVAT (Doing Business As MATTS TRAILER SALES)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Urban Valley Transport Ltd. (Urban Valley), rented parking and storage space in a commercial yard from the respondent, Matej Hrovat, who does business as Matts Trailer Sales. Urban Valley says that Mr. Hrovat unlawfully

seized Urban Valley's trailer when the parties' contract ended. Urban Valley says that Mr. Hrovat refused to let Urban Valley remove its trailer unless it paid \$420 to repair a fence, which Urban Valley denies damaging. Urban Valley paid the \$420 under protest.

2. In this Civil Resolution Tribunal (CRT) dispute, Urban Valley makes several claims. It asks for a return of the \$420 it paid for the fence repairs. It also claims lost revenue and wasted expenses because it did not have use of the trailer for 16 business days. Finally, Urban Valley asks to be reimbursed its legal fees. Urban Valley says that its total damages are almost \$7,000 (which I break down in detail below). However, it only claims \$5,000, which is to fit within the CRT's small claims monetary limit. Urban Valley is represented by its owner.
3. Mr. Hrovat denies "seizing" the trailer. He says that Urban Valley left the trailer on the property when the parties' agreement ended. He says that he wanted the trailer gone because it was in his way. In any event, he denies that Urban Valley suffered any damages and asks me to dismiss its claims. Mr. Hrovat is self-represented.

JURISDICTION AND PROCEDURE

4. These are the CRT's formal written reasons. 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.
5. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before

me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

6. 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.
7. 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.

ISSUES

8. The issues in this dispute are:
 - a. Did Urban Valley damage the chain link fence?
 - b. Did Mr. Hrovat unlawfully seize Urban Valley's trailer?
 - c. What, if anything, are Urban Valley's damages?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Urban Valley as the applicant must prove its case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision. I note that Urban Valley chose not to make reply submissions even though it had the opportunity to do so.
10. The parties entered a written "Parking-Storage Rental Agreement" that started on March 1, 2021. Mr. Hrovat was the sublandlord and Urban Valley was the

subtenant. I note that Mr. Hrovat did not sign the contract, but it is undisputed that they both agreed the contract's terms. The relevant terms are:

- The term was month-to-month, and either party could terminate the contract by giving 30 days' notice. Any termination date had to be the last day of the month.
- Rent was \$836.06 per month, including GST.
- Urban Valley paid a \$750 deposit.
- Urban Valley was liable to Mr. Hrovat "for any damages occurring to the premises".

11. Urban Valley parked a variety of large trucks and trailers in the yard. Mr. Hrovat says that Urban Valley damaged the chain link fence in the yard 3 times: April 27, July 2, and December 30, 2021. Urban Valley denies this. I return to this issue below.
12. On August 10, 2021, Mr. Hrovat gave Urban Valley a \$420 invoice to fix the fence, broken down as 10 hours of his time at \$40 an hour, plus GST. Urban Valley did not pay it at that time.
13. On November 29, 2021, an Urban Valley employee, KD, emailed Mr. Hrovat that Urban Valley was terminating the contract as of January 31, 2022. Mr. Hrovat responded the same day, terminating the agreement as of December 31, 2021.
14. In December 2021, Urban Valley stopped payment on the cheque it wrote for December rent. It says that it sent a new cheque that deducted the \$750 deposit, but Mr. Hrovat says he did not receive it.
15. Mr. Hrovat says that Urban Valley removed its equipment on December 31, 2021, except for a trailer. Urban Valley says that it could not remove the trailer that day because Mr. Hrovat's equipment was in the way. It says that Mr. Hrovat refused to move his equipment unless Urban Valley paid the \$420 invoice for the fence repair

and outstanding rent. Mr. Hrovat says that it is not true that he had blocked access on December 31, 2021. I accept Mr. Hrovat's evidence on this point because Urban Valley does not explain how Mr. Hrovat prevented it from removing a single trailer while allowing it to remove the rest of its large equipment. Notably, there is no statement from anyone from Urban Valley who was present on December 31, 2021.

16. Mr. Hrovat says that he tried to contact KD about outstanding December rent several times in early January 2022, but did not get a response. He says that he needed the yard for his own business equipment, so around January 5, 2022, he moved his equipment in. After that, Mr. Hrovat admits that his equipment blocked Urban Valley's trailer.
17. Mr. Hrovat says that Urban Valley showed up unannounced on January 10, 2022, to pick up the remaining trailer. Mr. Hrovat says that he sent them away because he needed a day's notice to move his equipment. He says he did not hear anything further until he heard from Urban Valley's lawyer over a week later. Urban Valley does not say anything about this alleged pickup attempt. I ultimately find that nothing turns on whether this happened.
18. Urban Valley paid Mr. Hrovat \$420 for the fence repairs under protest around January 18, 2021. It also paid \$405 in outstanding rent. On January 20, 2021, Mr. Hrovat emailed Urban Valley's lawyer that he would not move his equipment out of the way until the cheques cleared. Urban Valley picked up the trailer on January 25, 2022.
19. With that, I turn to Urban Valley's claims. Urban Valley breaks down its damages as follows: \$2,600 for loss of use of its trailer (calculated as \$650 per business day for 16 business days, divided by 4), \$40 for a month of the trailer's lease, \$420 for the fence repair, and \$3,713.92 in legal fees.
20. I start with the \$420 cost of repairing the fence. Urban Valley's submissions on this point are brief. It says that it asked Mr. Hrovat to make an Insurance Corporation of British Columbia (ICBC) claim so that it could be "dealt with in the correct manner",

but Mr. Hrovat refused. I disagree that anything turns on whether Mr. Hrovat made an ICBC claim, given the express term in the parties' contract requiring Urban Valley to pay for any damage.

21. Urban Valley also says that there is no evidence that it was Urban Valley who caused the damage. I disagree. Mr. Hrovat provided 3 photos of the chain link fence. The first is from June 2, 2021. It shows the back of a white truck backed up close to a chain link fence, which has a bent post. There is no logo visible on the truck. However, a later photo from a wider angle shows a white truck with Urban Valley's logo. Both photos show an upside-down pylon attached to the fence and the same building in the background, so I find that they show the same parking stall. With that, I find that the fence was damaged where Urban Valley parked its trucks. Since there is no suggestion that anyone else was allowed to park there, I find that it is was likely Urban Valley that damaged the fence.
22. Urban Valley does not dispute the amount Mr. Hrovat charged to fix the fence. I therefore find that it has not established any basis to be refunded the \$420, or any portion of it. I dismiss this claim.
23. I turn next to the claims about the loss of use of the trailer. I find that both these claims are based on Urban Valley's allegation that Mr. Hrovat wrongfully "seized" the trailer. I find that the legal concept that applies is "detinue". Detinue occurs when one person unlawfully possesses another person's property and refuses to return them on demand. Urban Valley essentially says that until January 25, 2022, Mr. Hrovat unlawfully kept possession of its trailer.
24. Mr. Hrovat denies that he ever seized the trailer. He says that he wanted it gone because it was taking up space he could have productively used. However, I find that Mr. Hrovat's January 20, 2022 email makes it clear that he refused to return the trailer until December 2021 rent and the fence repair costs were paid. I find that Mr. Hrovat prevented Urban Valley from picking up its trailer from January 5 to 20, 2022. The question is Mr. Hrovat's actions were lawful.

25. I find that it was not lawful. First, there is no general right for people to seize goods just because another person owes them money. Second, there is nothing in the parties' contract that gave Mr. Hrovat a security interest in the trailer. In other words, Urban Valley did not put its equipment up as collateral against its rent obligations. Third, while a landlord has a right to seize (and potentially sell) a tenant's goods for unpaid rent (a remedy called "distrain"), this right only exists if the landlord seizes the goods while the lease is ongoing: see *0824606 B.C. Ltd. V. Plain Jane Boutique Ltd.*, 2018 BCSC 1887, at paragraphs 182 to 183, and *Mybrie Investments Ltd. V. Icana Techno Corp.*, 1997 CanLII 2140 (BC SC), at paragraphs 41 to 46. Above, I accepted Mr. Hrovat's evidence that he did not prevent Urban Valley from picking up its trailer until after December 31, 2021, when the lease ended. He therefore had no right as a landlord to possess the trailer as collateral.
26. I turn then to Urban Valley's damages. It claims \$2,640 for lost use and wasted insurance but provided no evidence to support either claim. Crucially, there is no evidence (such as business records) to prove how many days Urban Valley would have earned revenue from the trailer or how much revenue or profit the trailer earned per working day. That said, as a matter of common sense, I find that Urban Valley likely suffered some loss because it did not have use of the trailer. In the absence of any persuasive evidence, on a judgment basis I award \$250 in damages.
27. Finally, regarding the legal fees claim, there is nothing in the parties' contract to support this claim. Absent anything explicit in the contract, it is well established that legal fees can only be recovered as "costs", not damages: see *Voyer v. C.I.B.C.*, 1986 CanLII 1226 (BC SC). In the context of the CRT, "costs" are called dispute-related expenses. Under CRT rule 9.5(3), the CRT will not order reimbursement of legal fees in small claims disputes except in extraordinary circumstances. I find that there is nothing extraordinary about this dispute, so I dismiss this claim.

28. The *Court Order Interest Act* (COIA) applies to the CRT. Urban Valley is entitled to pre-judgment interest on from January 25, 2022, to the date of this decision. This equals \$1.26.
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. Urban Valley was partially successful, so I find it is entitled to reimbursement of half of its \$175 in CRT fees, which is \$87.50. Urban Valley did not claim any dispute-related expenses. Mr. Hrovat did not claim any dispute-related expenses or pay any CRT fees.

ORDERS

30. Within 30 days of the date of this order, I order Mr. Hrovat to pay Urban Valley a total of \$338.76, broken down as follows:
- a. \$250 in damages,
 - b. \$1.26 in pre-judgment interest under the COIA, and
 - c. \$87.50 in CRT fees.
31. Urban Valley is entitled to post-judgment interest, as applicable.
32. I dismiss Urban Valley's remaining claims.
33. 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.

Eric Regehr, Tribunal Member