



Civil Resolution Tribunal

Date Issued: September 9, 2022

File: SC-2022-000186

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wangsness v. Berglund*, 2022 BCCRT 1005

BETWEEN:

CALVIN WANGSNESS

APPLICANT

AND:

DAVID BERGLUND

RESPONDENT

AND:

CALVIN WANGSNESS

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about alleged intentional property damage.
2. The applicant and respondent by counterclaim, Calvin Wangsness, says that the respondent and applicant by counterclaim, David Berglund, damaged his electric scooter. Mr. Wangsness claims \$1,948.80 for the repair costs.
3. Mr. Berglund denies damaging Mr. Wangsness' scooter. However, Mr. Berglund alleges that Mr. Wangsness broke the antenna off his truck, which Mr. Wangsness denies. Mr. Berglund counterclaims \$2,000 for his truck's repair costs.
4. The parties are each self-represented.

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. In some respects, both parties to 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 in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 28, 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.

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:
 - a. Did Mr. Berglund damage Mr. Wangsness' electric scooter, and if so, does he owe Mr. Wangsness \$1,948.80 for its repairs?
 - b. Did Mr. Wangsness damage Mr. Berglund's truck, and if so, does he owe Mr. Berglund \$2,000 for its repairs?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant Mr. Wangsness must prove his claims on a balance of probabilities (meaning "more likely than not"). Mr. Berglund bears the same burden to prove his counterclaim. I have read all of the parties' evidence and submissions, but I refer only to what I find is necessary to explain my decision.
11. The parties did not provide any detailed submissions about the history of their relationship or the circumstances that led to their conflict. I note the parties appear to live in the same building. Mr. Berglund also made reference in submissions to an incident in May 2021 where there was "almost an altercation" between the parties.
12. In any event, Mr. Berglund says that in the week of about September 22, 2021, he noticed that his truck's antenna, which was in the shape of a 50-caliber bullet, had been broken off his truck. He says Mr. Wangsness was responsible.

13. In support of his allegation, Mr. Berglund submitted undated text messages between himself and an unnamed member of Mr. Wangsness' family. Mr. Berglund asked the family member if she had seen anyone around his truck recently, to which she responded: "I know who ripped your bullet off they told me last night right to my face but it's my family so if I tell you what do I get for it". Mr. Berglund responded: "Was Calvin" and offered to give her some "bud" if she confirmed it, to which the family member responded: "Lol yes but I didn't tell u" (all quoted texts are reproduced as written). Mr. Wangsness admits that "Calvin" refers to him.
14. Mr. Wangsness says his family member only agreed with Mr. Berglund's suggestion that Mr. Wangsness was responsible for the antenna damage in exchange for drugs, and that she later recanted her story. Mr. Berglund says that Mr. Wangsness' family member told him that Mr. Wangsness tried to get her to provide a statement that she lied, but she refused because she thought Mr. Wangsness should take responsibility for his actions. Neither party provided any statement from Mr. Wangsness' family member. In the absence of supporting evidence, I find the suggestion that Mr. Wangsness' family member lied to Mr. Berglund is unproven. Overall, I find the text message exchange is persuasive evidence that Mr. Wangsness told his family member that he broke Mr. Berglund's truck antenna off.
15. As noted, the parties undisputedly have some history of conflict. I find there is no reasonable explanation for Mr. Wangsness to tell his family member that he vandalized Mr. Berglund's truck, unless he had done so. I also find that what Mr. Wangsness told his family member he had done is consistent with the photographic evidence of Mr. Berglund's truck damage. On balance, I find Mr. Wangsness intentionally damaged Mr. Berglund's truck by breaking off the bullet antenna.
16. I address damages below, but first, I address Mr. Wangsness' claim against Mr. Berglund.
17. Mr. Wangsness says that on October 1, 2021, Mr. Berglund vandalized his electric scooter in retaliation for the truck damage that Mr. Berglund believed Mr. Wangsness caused.

18. In support of Mr. Wangsness' allegations, he submitted surveillance video from the garage area where Mr. Wangsness undisputedly parks his scooter. The video shows a vehicle parked in a stall next to a wall. An individual walks up between the parked vehicle and the wall to the front of the vehicle. While the vehicle obstructs the view of what is on the ground in front of the vehicle, the video shows the individual lift a milkcrate full of unspecified items and empty the contents directly in front of them. Some of the items bounce or roll into view and they appear to be metal. The individual then also throws the empty milkcrate down in front of them and it bounces back to the rear of the parked vehicle. The individual is also shown walking to the rear of the vehicle and throwing a sleeping bag further into the garage, then returning to the front of the vehicle to kick at some of the items emptied from the milkcrate before walking away.
19. Mr. Wangsness says that his scooter was also in front of the parked vehicle, and that the individual's actions shown in the video damaged his scooter. While Mr. Berglund admits that he was the individual in the video, he denies damaging Mr. Wangsness' scooter. He says he had just confronted Mr. Wangsness about causing his truck damage, and that after they spoke, Mr. Wangsness got on his electric scooter and drove away. While Mr. Berglund admits he went to where he knew Mr. Wangsness parks his scooter and that he emptied Mr. Wangsness' milkcrate and threw his sleeping bag, he denies that Mr. Wangsness' scooter was there at the time.
20. Overall, I do not find Mr. Berglund's version credible. Even though the scooter is not visible in the video, I find it was likely present in front of the parked vehicle. I say this because Mr. Berglund appeared to drop the contents of the milkcrate onto something in front of him, and when he threw the milkcrate down, it appeared to bounce off an object rather than the ground. I find there is also no reasonable explanation for him to throw the milkcrate down or kick at the contents of the emptied milkcrate unless he was dropping and kicking them into an object for the purpose of causing it damage.

21. Given that Mr. Berglund says he had recently confirmed Mr. Wangsness damaged his truck antenna, I find it is more likely than not that he retaliated by going directly to where he knew Mr. Wangsness parked his scooter and intentionally damaging it.

Damages

22. Mr. Wangsness says that Mr. Berglund's actions damaged his scooter's lithium battery and plastic components, including a side panel. He provided an October 21, 2021 estimate from Wicked Electrics totalling the claimed \$1,948.80 for a lithium battery replacement, side panel set, and 2 hours of labour. However, there is nothing on the estimate describing the damage or what likely caused it, and Mr. Wangsness did not provide any photos of the scooter's damage. He also did not provide any information about the scooter's age, price, and general condition, or about the battery's expected life.

23. While I am prepared to find that Mr. Berglund's actions, as seen in the video evidence, likely damaged the scooter's plastic side panel, I find Mr. Wangsness has provided insufficient evidence to prove Mr. Berglund damaged the lithium battery. Therefore, I find Mr. Wangsness is only entitled to compensation for repairing the scooter's side panel.

24. The estimate shows the scooter's side panel set was valued at \$80. On a judgment basis, I find one hour of labour (at \$80 per hour) was for the side panel repair. So, I find Mr. Berglund must pay Mr. Wangsness \$160 plus tax for his scooter damage, which equals \$179.20.

25. Turning to the truck damage, Mr. Berglund says that Mr. Wangsness damaged the antenna housing and scratched some of the paint around the housing when he broke the bullet antenna off. He provided a photo of his truck, which appears to show the antenna was snapped off at the base. I find that Mr. Wangsness must replace the bullet antenna, for which Mr. Berglund provided an online ad showing a \$25.02 replacement cost.

26. Mr. Berglund also provided an estimate from a Ford dealership for \$362.38, which he says is related to repairing the antenna housing. However, the Ford estimate does not specifically state what it is for. It includes only a part number, described as “Aerial A”, and a flat \$280 for labour. I find the estimate provided is insufficient to prove that Mr. Wangsness damaged the antenna housing or that the estimate relates to the repairing the antenna Mr. Wangsness broke. However, I acknowledge that Mr. Berglund will likely incur some labour costs to install the new bullet antenna. On a judgment basis, I find \$90 is a reasonable amount for labour.
27. Finally, while Mr. Berglund’s photos show some paint scratches around the antenna housing, I find he has not proven the scratches were related to the broken antenna, or that Mr. Wangsness is responsible for them. In any event, he provided no evidence about the expected cost to repair the scratches. So, I decline to award Mr. Berglund anything for the paint scratches.
28. In summary, I find that Mr. Wangsness must pay Mr. Berglund \$115.02 for Mr. Berglund’s truck damage. Deducting that amount from the \$179.20 that Mr. Berglund must pay Mr. Wangsness, I find the net result is that Mr. Berglund must pay Mr. Wangsness \$64.18.
29. Both parties expressly waived their right to claim interest. It also appears that neither party has completed their vehicle repairs, so I make no order for interest.
30. 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. Both parties were only partially successful, recovering a small portion of their claimed damages. Under the circumstances, I find it is appropriate for each party to bear their own fees. Neither party claimed any dispute-related expenses, so I make no order.

ORDERS

31. Within 14 days of the date of this decision, I order Mr. Berglund to pay Mr. Wangsness a total of \$64.18 in damages, being \$179.20 for Mr. Wangsness' scooter damage less the \$115.02 Mr. Wangsness owes Mr. Berglund in damages for his truck.
32. Mr. Wangsness is entitled to post-judgment interest, as applicable.
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.

Kristin Gardner, Tribunal Member