



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Guimarin v. Singh*, 2022 BCCRT 1119

B E T W E E N

AMELIA GUIMARIN

APPLICANT

A N D :

SANDEEP SINGH and IVNEET SINGH MANN

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about bookcase damage. The applicant, Amelia Guimarin and the respondents, Sandeep Singh and Ivneet Singh Mann, live in adjacent units in a residential building. The applicant owns a bookcase which was stored in the shared garage. The applicant claims the respondents negligently damaged her bookcase by discharging water onto it. The applicant claims \$312.48 to replace the bookcase.

2. The respondents deny the applicant's claim and say that they did not know that the water pipe was ruptured. Further, they say the water did not damage the bookcase.
3. All parties are self-represented.

JURISDICTION AND PROCEDURE

4. 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.
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. 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.
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 do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUE

8. The issue in this dispute is whether the respondents negligently damaged the applicant's bookcase. If so, what is the remedy?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove her claim on a balance of probabilities (meaning "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.
10. The following facts are undisputed:
 - a. The applicant and the respondents reside on different floors of the same residential property and they share use of an attached garage.
 - b. The applicant stored a 182 cm tall by 182 cm wide IKEA Kallax bookcase in the garage.
 - c. A water pipe with a shut-off valve is located inside the garage. This pipe connects to an exterior faucet.
 - d. The water pipe inside the garage ruptured on or before February 13, 2022.
 - e. The respondents opened the valve on February 13, 2022 and water discharged into the garage.
 - f. The respondents tried to repair the ruptured water pipe with duct tape.
 - g. Immediately after attempting their repairs, the respondents used the exterior faucet to wash their car. While doing so, water discharged from the pipe into the garage again.
11. To prove that the respondents were negligent, the applicant must show the respondents owed her a duty of care, the respondents breached the standard of care,

the applicant sustained the claimed damage, and the damage was caused by the respondents' breach (*Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27).

12. I accept that as neighbouring residents, the respondents owed the applicant a duty to avoid discharging water into the garage while they used the exterior faucet. The standard of care is not perfection, but rather what would be expected of an ordinary, reasonable, and prudent person in the same circumstances (*Ryan v. Victoria (City)*, 1999 CanLII 706 (SCC), at paragraph 28).
13. The applicant says that the garage's water pipe's shut-off valve was turned off in the winter to prevent water leaks resulting from freeze bursts. Since the respondents do not dispute this, I accept it as accurate. The respondents admit that they opened the water pipe's shut-off valve on February 13, 2022 to wash their car. The respondents say that they did not know that the water pipe was damaged when they did so. Further, they say that they closed the shut-off valve and tried to repair the ruptured pipe with duct tape when they discovered that water was discharging from the pipe into the garage. The respondents' repair is discussed below.
14. The applicant argues that the respondents negligently used a damaged water line. However, I find that the applicant has not proved that the pipe was damaged when the respondents opened the water valve. Though it is undisputed that water discharged from the pipe into the garage, the evidence does not show whether the pipe was already damaged before the respondents opened the water valve as opposed to the pipe bursting later while the respondents were using the water outside. All parties say that they were not aware of pipe damage before the respondents used the water line on February 13, 2022 and the evidence does not show pre-existing damage. Without proving that the water pipe had already burst before the respondents used it, I find that the applicant has not proved that the respondents acted negligently by opening the water valve and using the exterior faucet.
15. The applicant also argues that the respondents negligently used the water pipe again after trying to repair the rupture with duct tape. It is undisputed that, after doing so,

the respondents started washing their car and the pipe leaked again. I find that this breached the standard of care because I find that a reasonably prudent person would not rely on duct tape to seal a ruptured water pipe. Further, even if the duct tape had temporarily sealed the pipe as the respondents say, I find that a reasonably prudent person would have monitored the duct taped pipe while they used the faucet to ensure that the seal held. So, I find that the respondents acted negligently.

16. Further, the respondents admit that the applicant's bookcase was stored next to the damaged water pipe and photographs show water located in the garage at the bottom of the bookcase. Based on the respondent's admission, and the supporting photographs, I find water discharged onto the applicant's bookcase as a result of the respondents' negligent repair and use of the water pipe.

17. The respondents argue that discharged water did not damage the bookcase because the water ran out and they promptly dried it. However, the applicant provided photographs which appear to show significant water damage at the bottom of the bookcase. The respondents also argue that most of the water was discharged during the initial leak, before their attempt to repair the pipe. In contrast, the applicant says that though the bookcase did get wet during the first leak, it became saturated in water during the second leak after the repairs. Further, the photographs of the duct tape repair appear to show that the area around the pipe was much wetter after the second leak than before. Based on the above, I find that the applicant's bookcase was damaged from water discharged from the pipe after the respondents negligently tried to repair it.

18. So, how much do the respondents owe in damages?

19. The applicant emailed 3 furniture repair businesses in July 2022, asking whether the bookcase could be repaired. These businesses were Medic of Greater Vancouver, Thao's Refinishing Studio and Wundwood Refinishing. All of these repair businesses sent the applicant emails saying that her bookcase's water damage was not repairable. Since all of these are furniture repair businesses, I am satisfied that they had sufficient expertise, as required by CRT rule 8.3, to provide expert opinions about

repairing the bookcase. Based on these undisputed expert opinions, I find that the applicant's bookcase was not repairable and must be replaced.

20. In the Dispute Notice, the applicant claims \$279 plus tax, totaling \$312.48. The applicant provided a sales listing from the bookcase's seller's website showing that the current retail price was \$422.16, including a delivery charge and tax. Based on this sales listing, I find that the bookcase's replacement cost is \$422.16. Since this replacement cost exceeds the claimed amount in the Dispute Notice, I find that respondents owe for the applicant the claimed \$312.48.

CRT fees, expenses and interest

21. The *Court Order Interest Act* (COIA) applies to the CRT. The applicant is entitled to pre-judgment interest on the \$312.48 damages from February 13, 2022, the date of the damage, to the date of this decision. This equals \$2.03

22. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As the applicant was successful in her claim against the respondents, I find the respondents must reimburse her \$125 in CRT fees. None of the parties requested reimbursement of dispute-related expenses, so none are ordered.

ORDERS

23. Within 30 days of the date of this order, I order the respondents to pay the applicant a total of \$439.51, broken down as follows:

- a. \$312.48 in damages,
- b. \$2.03 in pre-judgment COIA interest, and
- c. \$125 in CRT fees.

24. The applicant is entitled to post-judgment interest, as applicable.

25. 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.

Richard McAndrew, Tribunal Member