



Civil Resolution Tribunal

Date Issued: November 2, 2022

File: SC-2022-002227

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ormiston v. Ashton College Ltd.*, 2022 BCCRT 1199

BETWEEN:

ALISON MARJORIE ORMISTON

APPLICANT

AND:

ASHTON COLLEGE LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. Alison Marjorie Ormiston enrolled in Ashton College Ltd.'s Unit Clerk Certificate Program, which started in January 2021. Ms. Ormiston says that Ashton College guaranteed that the course would finish with a 90-hour practicum in June 2021 in an Alberta hospital. However, in May 2021, Ashton College informed Ms. Ormiston that due to the COVID-19 pandemic, none of the students would be offered a practicum

and would complete a “capstone project” instead. Ms. Ormiston says that without a practicum experience, she has no employment prospects as a unit clerk. She claims a refund of the \$4,995 she paid for the course. She is self-represented.

2. Ashton College agrees that it was unable to offer practicum placements to Ms. Ormiston’s class because of the pandemic but says that it never guarantees practicums. It also says that Ms. Ormiston accepted its offer to do a capstone project instead. Ashton College further says that many of its unit clerk students have found jobs without a practicum. It asks me to dismiss Ms. Ormiston’s claims. Ashton College is represented by an employee.

JURISDICTION AND PROCEDURE

3. 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.
4. 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.
5. 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.

6. 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

7. The issue is whether Ms. Ormiston is entitled to a refund of her tuition.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, Ms. Ormiston as the applicant must prove her 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.
9. As mentioned above, Ms. Ormiston enrolled in the unit clerk certificate program with Ashton College, starting January 2021. Her expected completion date was June 25, 2021. Ms. Ormiston completed the course remotely from Alberta, where she lives. Neither party provided evidence of a written contract setting out the terms of Ms. Ormiston's enrolment in the course.
10. In May 2021, Ashton College told its students that it could not provide any practicum placements because of COVID-19. Students instead could complete the course by doing a capstone project, which is a large written assignment. On May 31, 2021, Ms. Ormiston emailed Ashton College that she would complete a capstone project instead of a practicum, which she did. It is unclear exactly when she completed the program.
11. On June 1, 2021, Ashton College emailed its students advising that they could still do a practicum later if they complete the capstone project. Neither party says whether Ms. Ormiston ever attempted to take advantage of this offer. I infer that she did not because, as discussed below, Ashton College did not offer the exact

practicum Ms. Ormiston wants, and presumably still does not. None of these facts are disputed.

12. With that background in mind, I turn to Ms. Ormiston's 2 arguments about why she should receive a refund.
13. First, she says that Ashton College breached the parties' contract by failing to provide the practicum she was promised. She says that an Ashton College employee specifically verbally guaranteed a practicum with Alberta Health Services (AHS) when she initially enrolled. Unit clerks work in a variety of health care settings, but Ms. Ormiston's goal is to work in a hospital. AHS is the only entity that operates all the hospitals in Alberta. Ashton College undisputedly does not have an arrangement with AHS and never has hospital practicum placements in Alberta. Ashton College only has placements with private clinics in Alberta, which Ms. Ormiston says would have been useless to her given her career goals.
14. I find that Ms. Ormiston has not proven that anyone at Ashton College guaranteed a practicum placement at AHS or elsewhere.
15. Ms. Ormiston does not provide any written evidence to corroborate her allegation. Again, there is no written contract in evidence. Also, Ms. Ormiston did not provide any written correspondence with Ashton College, either from when she enrolled or when Ashton College cancelled the practicum program. Her email agreeing to a capstone project does not mention any guarantee about an AHS practicum. I find that if Ashton College had promised to provide an AHS practicum, Ms. Ormiston likely would have raised it at some point. There is also no statement from any other student who says they were offered similar guarantees, even though Ms. Ormiston's evidence implies that she is in touch with all her former classmates.
16. Ms. Ormiston also does not say who guaranteed a practicum placement with AHS, or when the conversation happened other than that it was when she was enrolling. I find her evidence somewhat vague on this point.

17. In contrast, Ashton College's Student Services Coordinator, AG, provided a written statement for this dispute. They said that Ashton College never guarantees a particular practicum placement because it depends on what is available at the time. Ashton College also says that its website clearly states that students will be able to complete a capstone project if there is a shortage of practicum placement spots. I find that this implies that practicums are not guaranteed. There is nothing on the webpage in evidence about which specific institutions may offer practicum placements. Ms. Ormiston does not allege that the screen shot of the course website in evidence is different than the one that existed when she enrolled, so I find that it was likely the same.
18. Overall, and especially in the absence of specific evidence from Ms. Ormiston about the alleged promise, I find it unlikely that Ashton College would guarantee a student a specific practicum spot when doing so would directly contradict its website. I also find it unlikely that Ashton College would guarantee a practicum spot that it could not possibly offer. I accept Ashton College's evidence that there is too much uncertainty to make any such guarantees 6 months in advance. I find that this would be especially true for placements in the healthcare sector during a pandemic.
19. In summary, I find that there was no contractual term guaranteeing Ms. Ormiston a practicum, either specifically with AHS or at all.
20. Ms. Ormiston also argues that Ashton College should not have encouraged students to do a capstone project instead of a practicum. Ms. Ormiston argues that the capstone project is no substitute for the practical experience of a practicum. She says that employers will only hire students who have practicum experience. She says that none of her former classmates have found work as a unit clerk.
21. Ashton College denies that there is a meaningful difference in the job market for students who complete a capstone project instead of a practicum. It specifically denies that all Ms. Ormiston's classmates have failed to find work.

22. Ms. Ormiston does not say what the legal basis for this argument is, which is not uncommon for self-represented participants in CRT disputes. I find that she essentially alleges that Ashton College misrepresented that doing a capstone project would not negatively impact her job prospects. For Ms. Ormiston to receive compensation for a misrepresentation, she must prove that the representation was either negligent or fraudulent. A negligent misrepresentation occurs when someone carelessly makes an untrue, inaccurate, or misleading statement. A fraudulent misrepresentation occurs when a someone knowingly or recklessly makes a false statement. Either way, Ms. Ormiston must prove that Ashton College made an inaccurate or untrue representation about the marketability of a certificate completed with a capstone project instead of a practicum.
23. I find that Ms. Ormiston has not proven that Ashton College's statement about capstone projects was untrue or inaccurate. She provided no evidence other than her own assertion that there is a difference in the job market between students who did a practicum and those who did not. She did not provide any evidence about her job search, such as correspondence with prospective employers. She also did not provide statements from any former classmates who she alleges have been unsuccessful in finding work.
24. In contrast, AG said that they have not noticed any difference in job prospects for students who did capstone projects. To support this assertion, Ashton College provided 2 emails confirming that 2 recent students had found jobs. However, it appears that only 1 completed a capstone project instead of a practicum. Ms. Ormiston points out that this student was not from her class. Still, I find that the email supports the AG's statement, and contradicts Ms. Ormiston's general point that people with capstone projects are not employable.
25. On balance, I find that Ms. Ormiston has not proven that Ashton College misrepresented the marketability of a certificate completed with a capstone project.
26. I therefore find that Ms. Ormiston has not proven that she is entitled to a full or partial refund. I dismiss her claim.

27. 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. Ms. Ormiston was unsuccessful, so I dismiss her claim for CRT fees and dispute-related expenses. Ashton College did not claim any dispute-related expenses or pay any CRT fees.

ORDER

28. I dismiss Ms. Ormiston's claims, and this dispute.

Eric Regehr, Tribunal Member