



# Civil Resolution Tribunal

Date Issued: December 7, 2022

File: SC-2022-001846

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *White Elephant Holdings Ltd. v. KBK Automobile Services Ltd.*,  
2022 BCCRT 1317

B E T W E E N :

WHITE ELEPHANT HOLDINGS LTD.

**APPLICANT**

A N D :

KBK AUTOMOBILE SERVICES LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Megan Stewart

## INTRODUCTION

1. This dispute is about the sale of an auto repair hoist.
2. The applicant, White Elephant Holdings Ltd. (White Elephant), says it purchased an auto repair hoist from the respondent, KBK Automobile Services Ltd. (KBK), for

\$3,000. KBK does not dispute this. White Elephant says when it got the hoist installed, the installer said the motor was defective, there were faulty wires, and hardware was missing. White Elephant also says KBK misrepresented the hoist's true age, which was older than KBK indicated. White Elephant claims \$1,200 for repairs to the hoist, including \$700 for a new motor, \$300 to replace missing hardware, and \$200 for hoist installation.

3. KBK says White Elephant never mentioned any problems with the hoist. It says if it had been told of any alleged faults, it could have arranged an inspection of the hoist prior to KBK engaging a mechanic to carry out repairs. KBK also says there is no proof White Elephant paid for the repairs claimed so it owes White Elephant nothing.
4. White Elephant is represented by an employee or principal, NG. KBK is represented by an employee or principal, AK.
5. I note I have identified an issue about whether White Elephant has legal standing to bring this claim, which I address below.

## **JURISDICTION AND PROCEDURE**

6. 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.
7. 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.

8. 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.
9. 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**

10. The issues in this dispute are:
  - a. Whether White Elephant has legal standing to bring this claim,
  - b. If so, whether the hoist was defective and KBK breached the auto repair hoist sale agreement, and
  - c. If so, whether White Elephant is entitled to the claimed \$1,200 as reimbursement for repair expenses.

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities. 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 KBK did not offer any evidence or make any submissions, despite having the opportunity to do so.
12. I turn to the issue of standing, which the parties did not raise but I find is a threshold legal question I must address. I considered whether to invite submissions

about standing but ultimately decided not to, given the CRT's mandate of speedy, economical dispute resolution. The issue is whether White Elephant has a legal right to make its claim against KBK. For the following reasons, I find it does not.

13. White Elephant submitted screenshots of a Facebook Marketplace posting it says was AK's, advertising the auto repair hoist for sale. KBK does not dispute the posting was AK's. The Facebook posting was for a "\$3,500 - 2 post hoist" in a "Used - Good" condition.
14. White Elephant also submitted Facebook messages about the hoist it says were between NG and AK. Again, KBK does not dispute this. The messages do not indicate they were from White Elephant or KBK Facebook accounts and make no mention of either company. In the messages, NG asked if the hoist was still available, what AK's best offer was, when AK bought the hoist and whether it was still under warranty. AK responded, "I can't go low it new" (reproduced as written) and confirmed he had gotten the hoist earlier in the year. NG eventually offered AK \$2,000 for the hoist, but there is no evidence AK responded. Later, NG asked if he could come and see the hoist and AK answered "Ok."
15. In short, the undisputed evidence showed the Facebook posting was AK's and written communication about the hoist including NG's \$2,000 offer was between NG and AK, with no mention of White Elephant. Other than the installer's invoices which I address below, the Facebook posting and Facebook messages are the only evidence connected to the auto repair hoist's sale submitted by either party. Importantly, neither White Elephant nor KBK submitted evidence of any agreement between the companies for the sale of the auto repair hoist.
16. White Elephant submitted invoices from Value Motors BC it said were for motor parts, wiring, hardware, and labour charges after it purchased the hoist. The invoices were addressed to someone with the initials NK. It is unclear who NK is since the invoices included no identifying information other than the same phone number NG provided AK in the Facebook message exchange. In any event, the invoices made no reference to White Elephant.

17. Based on the evidence before me, I find White Elephant has not proven it contracted with KBK to buy the auto repair hoist. I find it more likely than not that the auto repair hoist sale agreement was between NG and AK. The concept called “privity of contract” means that generally a contract cannot give rights to or impose obligations on any person except the parties to that contract.
18. A corporation is a separate legal entity distinct from its owners and officers. The full names of both parties end with the abbreviation “Ltd.”, so I find they are both corporations. I accept NG is affiliated with White Elephant and AK is affiliated with KBK, each as an employee or a principal. However, I find these affiliations do not prove White Elephant has the legal right to bring this claim against KBK based on an agreement that on the evidence before me only involves NG and AK the individuals. White Elephant has not provided any other legal basis for its claim against KBK.
19. So, I find White Elephant has no rights or obligations under the auto repair hoist sale agreement. It follows that I find no legal basis to award White Elephant any reimbursement for expenses paid by NG under the auto repair hoist sale agreement.
20. Given my conclusions above, I find I do not need to address whether the hoist was defective and there was a breach of contract, or whether White Elephant named the correct respondent.
21. I dismiss White Elephant’s claim. As White Elephant was not successful, I also dismiss its claims for CRT fees and dispute-related expenses. KBK did not pay any fees or claim any expenses, so I make no order for reimbursement.

## **ORDER**

22. I dismiss White Elephant’s claims and this dispute.

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Megan Stewart, Tribunal Member