



Civil Resolution Tribunal

Date Issued: January 18, 2023

File: SC-2022-003142

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Seppke v Gustavson (dba Crowsnest Mountain Esthetics Academy)*,
2023 BCCRT 48

B E T W E E N :

LORIE GEORGINA SEPPKE

APPLICANT

A N D :

KAREN GUSTAVSON (Doing Business As CROWSNEST MOUNTAIN
ESTHETICS ACADEMY)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about an acrylic nails course.
2. The applicant, Lorie Georgina Seppke, enrolled in an online acrylic nail course offered by the respondent, Karen Gustavson (Doing Business as Crowsnest Mountain

Esthetics Academy) (CMEA). Ms. Seppke says CMEA's course did not provide her with the proper training to do acrylic nails. Ms. Seppke asks for an order that CMEA pay her a total of \$2,940 for the cost of the course, projected lost income, and the cost of a new person teaching Ms. Seppke how to use an electric file and the proper application of acrylics.

3. CMEA disputes Ms. Seppke's claims. CMEA says its course covered all subjects. CMEA says Ms. Seppke completed 8 classes, but failed to submit all classroom work and did not complete the course's theory component. CMEA says Ms. Seppke is not entitled to any of her claimed remedies.
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 in this dispute call into question the credibility, or truthfulness, of the other. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

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 CMEA fail to competently deliver its acrylic nails course?
 - b. If yes, what remedies are appropriate?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Ms. Seppke must prove her claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.
11. It is undisputed that Ms. Seppke paid CMEA to participate in its online acrylic nails course. Ms. Seppke says she paid approximately \$1,200 for the course. Although there is no payment documentation, nothing turns on the exact payment amount given that I dismiss Ms. Seppke's claim. My reasons follow.

12. Ms. Seppke says she was disappointed with the quality of the instructor and says the instructor spent most of the class time sharing personal stories and troubles. Ms. Seppke says several skills were not taught during the 8 sessions provided, including shaping, filing, and removal of acrylic nails. While she does not use these words, I find Ms. Seppke alleges CMEA breached the parties' contract by failing to competently deliver its acrylic nails course.
13. It is unclear precisely what was included in CMEA's acrylic nails course. CMEA provided a copy of a text message to Ms. Seppke that included a course outline. The course included theory, orientation, nail care and business skills. It listed 6 days of class, plus a 7th day for exams. The course outline also said that the practicum and theory requirement must be completed within 1 year of the course start date. Ms. Seppke did not dispute this evidence, so I accept it as accurate.
14. CMEA also provided emailed statements from 4 other CMEA students, including NW, SC, CV, and SM. All four statements essentially say that CMEA provided excellent training in its courses. However, only SM says they were in the same course as Ms. Seppke, so I find the other three statements irrelevant to Ms. Seppke's course and I place no weight on them.
15. In SM's statement, they said that CMEA provided 8 classes that included prep, tip application, form application, sculpted acrylic, reverse sculpted acrylic, nail art, filing, shaping, removal and fill. SM said what they, and Ms. Seppke, learned in the course was exceptional for them to have successful careers in doing nails. SM also alleged that Ms. Seppke had not done the "book work" required to succeed in the course. I accept SM's statement about the subjects covered during the course. I prefer SM's evidence on this issue to Ms. Seppke's because it is more consistent with the course outline, and the undisputed fact that CMEA provided 8 class sessions, which is 1 more than listed in the course outline. I place no weight on SM's opinion on the quality of the training itself as SM is not an expert in course evaluation. I also place no weight on SM's statement about the course work undertaken by Ms. Seppke outside of class because SM did not explain how they knew this.

16. For her part, the only documentary evidence Ms. Seppke provided were text messages between herself and two other people, S and N. In the text messages, S expressed some dissatisfaction with the course instructor. The text messages with N do not provide any evidence about CMEA's course. Overall, I find these text messages do not show that CMEA failed to provide the proper acrylic nails training.
17. Ms. Seppke's submissions also appear to include statements from S and another unidentified "graduate". I find these alleged statements unreliable because they are included in the body of Ms. Seppke's submissions and it is not possible to determine who authored them. Therefore, I place no weight on them.
18. As noted, Ms. Seppke bears the burden of proving her claims. The problem for Ms. Seppke is that she did not provide evidence that shows CMEA failed to competently deliver its acrylic nails course. Although Ms. Seppke alleges that CMEA did not cover shaping, filling, and removal of acrylic nails, I accept SM's statement that CMEA did so. Ms. Seppke also did not provide any expert evidence to show the CMEA's instructor fell below a professional standard in their course delivery, which I find would be required here because it is not obvious from the evidence that the instructor's course delivery fell below a reasonable standard. See *Schellenberg v. Wawanese Mutual Insurance Company*, 2019 BCSC 196, at paragraph 112. Based on the evidence, I find Ms. Seppke has not met her burden of proving that CMEA failed to competently deliver its acrylic nails course.
19. As a result, it is unnecessary to consider Ms. Seppke's claimed damages.
20. 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. As Ms. Seppke was unsuccessful, I dismiss her claim for reimbursement of paid CRT fees. CMEA did not pay any CRT fees and neither party claimed any dispute-related expenses, so I award none.

ORDER

21. I dismiss Ms. Seppke's claims and this dispute.

Leah Volkers, Tribunal Member