



Civil Resolution Tribunal

Date Issued: March 14, 2023

File: SC-2022-004283

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mahil v. Northstar Limousine Ltd.*, 2023 BCCRT 210

B E T W E E N :

RITU MAHIL

APPLICANT

A N D :

NORTHSTAR LIMOUSINE LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. The applicant, Ritu Mahil, hired the respondent, Northstar Limousine Ltd. (Northstar), for a round trip limousine service for June 18, 2022. Mrs. Mahil says the limousine did not show up for the return trip, so she and her friends and family had to take taxis

home at the end of the evening. She claims \$390 for the cost of the unused return limousine trip and \$200 for injury to dignity and hurt feelings, for a total of \$590.

2. Northstar says its limousine driver waited for Mrs. Mahil's party for the return trip at the agreed upon time and location for over an hour, but she never appeared. It says a member of Mrs. Mahil's party texted the driver 2 hours after he arrived for the return trip saying they could not find the limousine and had taken a taxi home. Northstar says it fulfilled its obligations to Mrs. Mahil and owes her nothing.
3. Mrs. Mahil is self-represented. Northstar is represented by an employee or principal.

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.
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.

8. In her submissions, Mrs. Mahil raises an additional claim for reimbursement of her taxi fare home, which she says was about \$75. This claim was not included in Mrs. Mahil's Dispute Notice. I find Northstar did not have fair notice of Mrs. Mahil's additional claim, raised only in argument, to allow it to properly respond. So, I find this additional claim is not properly before me. I note that even if Mrs. Mahil had included this claim in her Dispute Notice, I would have dismissed it as there is no supporting evidence of the claimed amount.

ISSUES

9. The issues in this dispute are:
 - a. Whether either party breached the contract, and
 - b. If Northstar breached the contract, whether Mrs. Mahil is entitled to the claimed damages.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant Mrs. Mahil 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 the evidence and argument that I find relevant to provide context for my decision. I note Mrs. Mahil did not provide reply submissions despite having the opportunity to do so.
11. In a Statement of Facts, the parties agree Mrs. Mahil hired Northstar for a round trip limousine service for June 18, 2022. They further agree they confirmed a 10:30pm pick-up time from the same hotel at which the driver dropped Mrs. Mahil's party off. An undisputed "reservation info" email submitted by Northstar confirms additional information, including a pick-up address and pick-up time of 3:30pm, a stop on the way and a paid \$780 charge. I find the reservation information and the agreed 10:30pm pick-up time constitute the contract terms.

12. In a sworn statement in evidence, Mrs. Mahil says that at drop-off, she re-confirmed the return trip with the driver and that he would “pick us up at 10:30pm exactly where he dropped us off.” At 10:30pm, she says her party returned to the confirmed pick-up location, but the limousine was not there. After about 15 or 20 minutes, Mrs. Mahil says she called Northstar’s office number. There was no answer. Mrs. Mahil did not indicate how long she continued to wait for the limousine but says eventually the members of her party went off in search of their own taxis. Mrs. Mahil says this caused her embarrassment as she had been responsible for organizing limousine service for the group and the fact that they were not able to ride home together at the end of the night “dampened [their] spirits.”
13. For its part, Northstar says its driver was waiting with the limousine at the designated pick-up location at 10:30pm. In support of this, Northstar submitted GPS tracking information showing the limousine’s coordinates at drop-off and at 10:23pm when it arrived to collect Mrs. Mahil’s party. I note the coordinates for drop-off and pick-up are nearly identical, and this is confirmed by a street view of the coordinates’ locations. The tracking information also indicates the limousine waited for about an hour and 9 minutes, before leaving around 11:32pm. Mrs. Mahil does not expressly challenge this evidence.
14. Northstar also submitted text messages from the limousine driver to both contact numbers Mrs. Mahil provided. At 10:31pm, the driver messaged Mrs. Mahil’s number confirming the limousine had arrived and was waiting at the same drop-off location. There was no evidence of a response. At 11:32pm, the driver messaged the alternate number saying the limousine had been waiting an hour. The 12:32am response to that message says “they ended up cabbing home couldn’t find you” and the driver replied “I was the only limo there!” He also confirmed his location was the same as it was for drop-off.
15. On balance, I prefer Northstar’s undisputed GPS tracking information and text message evidence to Mrs. Mahil’s unsupported account of events. I say this because I find Northstar’s evidence more objectively and independently recounts what

happened (and when) than does Mrs. Mahil's recollection, which is unsupported by any statements from others in her party or other documentary evidence. So, I find it more reliable and the best evidence of what happened.

16. I turn to the question of breach of contract. As noted above, I find the contract terms included a 10:30pm pick-up time. Based on Northstar's evidence, I accept Mrs. Mahil's party was not waiting at the designated pick-up location at that time, and Northstar's driver waited for over an hour for the party to arrive after trying to contact Mrs. Mahil. Northstar undisputedly provided Mrs. Mahil with a copy of its policies, including its waiting time policy, when she made the reservation. The waiting time policy says "waiting time applies to all reservations after a 10 minutes grace period" (reproduced as written). Waiting time charges are not set out in the policy, but in any event, there is no allegation or evidence Northstar charged Mrs. Mahil an additional fee for having waited until 11:30pm.
17. By not attending the specified pick-up location within 10 minutes of the agreed 10:30pm pick-up time, I find Mrs. Mahil breached the parties' contract. Since Mrs. Mahil breached the contract, I find she is not entitled to the claimed \$390 damages for the unused return limousine trip, and I dismiss that part of her claim.
18. I also dismiss Mrs. Mahil's \$200 claim for injury to dignity and hurt feelings, because she breached the contract, not Northstar.
19. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As Mrs. Mahil was unsuccessful, I find she is not entitled to reimbursement of CRT fees. Northstar did not pay CRT fees. Neither party claimed dispute-related expenses.

ORDERS

20. I dismiss Mrs. Mahil's claim and this dispute.

Megan Stewart, Tribunal Member