



Civil Resolution Tribunal

Date Issued: March 27, 2023

File: SC-2022-003766

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Obedi v. Ulmer*, 2023 BCCRT 257

BETWEEN:

DANIEL OBEDI

APPLICANT

AND:

WILLIAM ULMER

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about an agreement for vehicle repairs. The applicant, Daniel Obedi, hired the respondent, William Ulmer, to rebuild Mr. Obedi's 2005 Dodge Ram truck's

engine for \$800. Mr. Obedi says he paid Mr. Ulmer a \$400 deposit, bought related repair supplies, and insured and towed the vehicle to Mr. Ulmer's property, so Mr. Ulmer could complete the repairs. Mr. Obedi says that 2 months passed and Mr. Ulmer failed to do the agreed repairs. So, Mr. Obedi says Mr. Ulmer must reimburse him for his expenses associated with Mr. Ulmer having the truck for repair but not completing it. Mr. Obedi claims \$2,464.01 in damages, as discussed below.

2. As also discussed below, Mr. Ulmer denies responsibility for any of the claimed expenses.
3. The parties are each 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). CRTA section 2 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. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
6. CRTA section 42 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 Mr. Ulmer breached the parties' agreement to rebuild Mr. Obedi's truck engine, and if so, to what extent, if any, is Mr. Obedi entitled to the claimed \$2,464.01 in damages.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant Mr. Obedi must prove his claim on a balance of probabilities (meaning "more likely than not"). I have read all the submitted evidence and arguments but refer only to what I find relevant to provide context for my decision. Mr. Ulmer did not submit any documentary evidence or written arguments, despite having the opportunity to do so.
10. On March 24, 2022, Mr. Ulmer agreed to rebuild Mr. Obedi's truck's engine for \$800. Mr. Obedi paid him a \$400 deposit. Mr. Obedi bought various supplies for Mr. Ulmer to do the work. Mr. Obedi insured the truck and on April 2, 2022 had it towed to Mr. Ulmer's property. Mr. Ulmer never did any work on Mr. Obedi's engine or truck. Mr. Obedi removed the truck on June 23, 2022. None of this is disputed.
11. At issue in this dispute is Mr. Obedi's entitlement to various expenses he says he incurred due to Mr. Ulmer having his truck for 3 months but doing no work on it. In his Dispute Response, Mr. Ulmer said that Mr. Obedi had "plenty of time" to remove his truck and motor but "prolonged the issue" himself. Mr. Ulmer denies responsibility for any of the claimed expenses. Mr. Ulmer did not address the \$400 deposit.
12. Mr. Obedi says Mr. Ulmer verbally told him the engine rebuild would take 2 days. He says he repeatedly called Mr. Ulmer about when his truck would be ready.

13. In Mr. Ulmer's Dispute Response filed at the outset of this proceeding, he said that he told Mr. Obedi many times that "Bylaw" said Mr. Ulmer could not do automotive repairs on residential property. I infer this is Mr. Ulmer's explanation for why the truck repairs did not proceed immediately. The parties' text messages in evidence show that at some point before May 29 Mr. Obedi asked Mr. Ulmer if he would get the truck done by May 31. Mr. Obedi says Mr. Ulmer demanded the \$400 balance if he was going to do the work by May 31, which Mr. Obedi says he refused. Yet, on May 29, 2022 Mr. Ulmer texted that when the truck was finished he wanted the \$400 balance. Given the above, I find it unproven Mr. Ulmer demanded payment in full before doing the work.
14. Then, on June 1, Mr. Obedi texted Mr. Ulmer "get the invoice ready. I have ur moneys" (quote reproduced as written). I find it likely this meant that Mr. Ulmer had agreed to have the truck ready by May 31 and that Mr. Obedi accepted this. The next text messages between the parties show that at some point on June 6 or 7, Mr. Ulmer asked Mr. Obedi to remove the truck and motor from Mr. Ulmer's property. Mr. Ulmer's request was just after Mr. Ulmer received a copy of the Dispute Notice in this proceeding. Mr. Obedi then did not pick up the truck until June 23, 2022, and says he wanted to wait to do so until after Mr. Ulmer responded to this CRT dispute.
15. Given the text messages, I find it unproven Mr. Ulmer agreed to complete the repairs in 2 days. However, I find it likely that Mr. Ulmer breached the parties' agreement by failing to repair the truck in a timely way, which here I find meant by May 31, 2022. Notably, Mr. Ulmer does not deny he agreed to the engine rebuild and failed to do so, and the evidence shows he did. Mr. Ulmer also does not argue that Mr. Obedi is at fault for the repairs not being completed by May 31, 2022.
16. The usual remedy for breach of contract is damages, which I find are appropriate here. Generally speaking, damages for breach of contract are meant to put the innocent person in the same position as if the contract had been performed: *Water's Edge Resort v. Canada (Attorney General)*, 2015 BCCA 319, at paragraph 39. These are called "expectation damages".

17. In the case of a repudiatory or fundamental breach (where the respondent refuses to perform the agreed work), the innocent party may claim damages based on their out-of-pocket losses, rather than the ordinary measure of expected performance: see *Bhullar v. Dhanani*, 2008 BCSC 1202 at paragraphs 42 to 45 and *Karimi v. Gu*, 2016 BCSC 1060 at paragraphs 206 to 211). In other words, “put me in the position I was in before the contract was made.” For non-fundamental breaches that do not go to the heart of the contract, damages are based on putting the applicant in the position they would be in had the contract been performed.
18. Here, I find a repudiatory breach unproven. I say this because I find insufficient evidence that Mr. Ulmer refused to do the work between the May 29, 2022 text exchange and Mr. Obedi’s decision to sue Mr. Ulmer by filing this CRT dispute on June 6, 2022. I find that 1-week delay in completing repairs does not amount to a refusal to perform the agreed work. I also find Mr. Obedi’s decision to sue Mr. Ulmer amounted to Mr. Obedi’s termination of the parties’ contract, and so nothing turns on Mr. Ulmer’s subsequent request that Mr. Obedi pick up the truck and motor.
19. In other words, I find Mr. Ulmer breached the parties’ contract by failing to complete the repairs in a timely way, but I find that the delay was not so substantial as to amount to a fundamental or repudiatory breach. This means that Mr. Obedi’s damages are limited to the money it would take to put him in the position had Mr. Ulmer completed the repair, rather than putting him in the pre-contractual position and awarding out of pocket expenses.
20. I turn then to Mr. Obedi’s damages, which total \$2,464.01:
- a. **\$400: A refund of the \$400 deposit Mr. Obedi undisputedly paid Mr. Ulmer in cash on April 2, 2022.** Mr. Obedi submitted a screenshot of his April 2, 2022 text to Mr. Ulmer confirming he had provided the \$400 “towards partial pmt on labour for motor install”.
- Mr. Ulmer does not address Mr. Obedi’s request for the return of his \$400 partial payment. Had the contract been completed, Mr. Obedi would have the

engine in his truck. Since Mr. Ulmer undisputedly did not do the work, I find he must refund Mr. Obedi the \$400.

- b. **\$85: Mr. Obedi submitted a receipt for his May 6, 2022 payment of \$80 for an April 4, 2022 parking ticket**, for parking in front of or within 1.5 metres of a driveway or laneway entrance. Mr. Obedi says Mr. Ulmer left the truck on the road, leading to the ticket. Mr. Obedi does not explain why he claims \$85, not \$80.

Mr. Obedi submitted a screenshot of Mr. Ulmer's text message to take the \$80 off the balance owing for the repairs. I find this shows Mr. Ulmer acknowledged the ticket was his responsibility and agreed to pay it. I allow \$80 for the ticket.

- c. **\$359.01: Car insurance**, \$119.67 for each of April, May, and June 2022. Mr. Obedi says Mr. Ulmer asked him to insure the truck on March 31, 2022 and so Mr. Obedi did.

I accept Mr. Obedi insured the truck so that Mr. Ulmer could do the repair, since the insurance record in evidence indicates it was insured effective April 1, 2022. However, I find this is an out of pocket expense, rather than damages that would put Mr. Obedi in the position he would have been in had Mr. Ulmer completed the contract. In other words, had Mr. Ulmer completed the contract, Mr. Obedi would have still incurred these insurance charges, for April and May while it was with Mr. Ulmer for repair and for June because Mr. Obedi would have been driving the truck. So, I dismiss the \$359.01 aspect of Mr. Obedi's claim.

- d. **\$270: Towing charges**. First, "around \$120 to \$160" for BCAA to tow the truck to Mr. Ulmer. Mr. Obedi did not submit a receipt, saying BCAA told him it could not locate it. Second, \$150 for towing to another mechanic, but again Mr. Obedi did not submit a receipt.

I dismiss this aspect of Mr. Obedi's claim because he submitted no receipts, and bearing in mind Mr. Ulmer said in the Dispute Response that Mr. Obedi is

a BCAA member and that BCAA towing is free. In any event, I find the towing charges are out of pocket expenses that are not recoverable here.

- e. **\$1,350: “Lost warranty” on the engine** Mr. Obedi bought for the rebuild. He submitted an April 4, 2022 invoice from Pro Auto Recyclers for the engine. The invoice totalled \$2,682.40, and did not break out any amount for a warranty. The body of the invoice said Mr. Obedi declined an extended parts and labour warranty but received a 4-month warranty on the engine part only, which was included with the sale.

I dismiss this aspect of Mr. Obedi’s claim as well. First, because I found above Mr. Obedi has not proved any repair timeline beyond a repair by May 31, 2022. Second, because the invoice shows no price breakdown for the included 4-month warranty.

- 21. In total, I find Mr. Obedi is entitled to \$480, for the deposit refund and the parking ticket.
- 22. The *Court Order Interest Act* (COIA) applies to the CRT. However, Mr. Obedi expressly waives any claim to pre-judgment interest, so I make no order for it.
- 23. 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. Mr. Obedi was partially successful so I find he is entitled to reimbursement of \$62.50 for half his paid CRT fees. He also claims \$80 for serving the Dispute Notice but provided no receipt. Since I find that expense unproven, I do not allow it. Given Mr. Obedi’s partial success, I dismiss Mr. Ulmer’s claim for reimbursement of CRT fees.

ORDERS

- 24. Within 21 days of this decision, I order Mr. Ulmer to pay Mr. Obedi a total of \$542.50, broken down as follows:

- a. \$480 in debt, and
- b. \$62.50 in CRT fees.

25. Mr. Obedi is entitled to post-judgment interest, as applicable. I dismiss the balance of his claims. I dismiss Mr. Ulmer's claim for reimbursement of CRT fees.

26. 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.

Shelley Lopez, Vice Chair