



Civil Resolution Tribunal

Date Issued: April 24, 2023

File: SC-2022-005580

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wice v. Atlas Van Lines (Canada) Ltd.*, 2023 BCCRT 335

BETWEEN:

MONICA MARY WICE

APPLICANT

AND:

ATLAS VAN LINES (CANADA) LTD./LIGNE DE TRANSPORT ATLAS
(CANADA) LTEE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. This dispute is about what “reasonable” means in an agreement to reimburse reasonable hotel expenses.

2. The applicant, Monica Mary Wice, hired the respondent, Atlas Van Lines (Canada) Ltd./Ligne De Transport Atlas (Canada) Ltee (Atlas), to move her belongings from Ontario to BC. Atlas delivered her belongings 2 days late, triggering a contractual obligation to pay for reasonable lodging and meal expenses during that 2-day period. Atlas reimbursed Ms. Wice's meals and \$500 of her hotel expenses. The meals are not in dispute, but Ms. Wice says Atlas still owes her \$1,026.13 for hotel expenses. She says she had difficulty finding a local hotel and had to extend her search to Victoria, BC, eventually selecting the Oak Bay Beach Hotel. She says she discussed her difficulties with Atlas and it did not offer to help her find a hotel or set any spending limits.
3. Atlas says its representative verbally told Ms. Wice before she booked her hotel that she would be reimbursed \$250 per night. It says it reimbursed her \$500 for 2 nights based on comparable rates in the area. Atlas says it owes nothing else and the claim should be dismissed.
4. Ms. Wice represents herself. Atlas is represented by an employee.

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 call into question the credibility, or truthfulness, of the other. However, as I explain below, in the circumstances of this

dispute it is not necessary to resolve the credibility issues that the parties raised. I therefore decided to hear this dispute through written submissions.

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.

ISSUE

9. The issue in this dispute is what “reasonable” lodging expenses means, and whether Atlas was required to reimburse Ms. Wice anything more than \$500 for her 2-night hotel stay.

EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Ms. Wice must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties’ evidence and submissions, I only refer to what is necessary to explain my decision.
11. On May 24, 2022, Ms. Wice entered into an agreement with Atlas to move her belongings from Ontario to a small city on Vancouver Island, BC. Atlas did not deliver Ms. Wice’s belongings within the contract’s “agreed delivery period,” which ended on July 9, 2022. On July 8, Ms. Wice received a phone call from an Atlas employee, JA, who said the driver was delayed. They discussed reimbursement of hotel and meal expenses. Atlas confirmed in a July 8 follow-up email that it would cover “hotel and 50% of meals (excluding alcohol).” Atlas delivered the belongings on July 11.
12. Ms. Wice says she then spent 4 hours calling hotels trying to find a last-minute room for July 9 and 10. It is undisputed that Ms. Wice was travelling with her child and 2

dogs. Ms. Wice says she called JA back and said she was unable to find a local hotel and would expand her search to Victoria. She says JA agreed but did not offer to assist in finding a hotel or mention any spending limits. Ms. Wice says after numerous calls to Victoria hotels, several suggested that Oak Bay Beach Hotel (OBBH) would allow 2 dogs. She says she booked OBBH's last available room. The OBBH receipt shows that Ms. Wice paid \$1,718.47 for 2 nights' accommodation.

13. JA provided a different account of her conversation with Ms. Wice. In an emailed statement, JA said she told Ms. Wice that Atlas considers \$250 per night a reasonable rate in BC. JA said Ms. Wice said she thought \$500 per night was reasonable for Victoria, but JA let her know that she disagreed. Ms. Wice strongly denies discussing rates or hotel spending limits. Ultimately, I find nothing turns on what was said in the July 8 phone conversation. This is because, as I explain below, I find Atlas' obligation to reimburse Ms. Wice's reasonable expenses arose from the parties' contract and the "uniform conditions of carriage."
14. The conditions of carriage are set out on the reverse side of the "bill of lading". I acknowledge Ms. Wice's submission that she never saw the conditions of carriage. However, section 6 of the *Carriage of Goods Regulation* under Ontario's *Highway Traffic Act* says that the uniform conditions of carriage are deemed to be terms and conditions of every contract of carriage of household goods. I find that Ontario's legislation applied here because the parties were both in Ontario when they made their contract, although BC has similar legislation. So, I find the uniform conditions of carriage applied. Article 6 said Atlas's failure to deliver the goods on time makes Atlas liable for Ms. Wice's "reasonable food and lodging expenses."
15. Contrary to Atlas's submission, I find that Atlas did not have the power to unilaterally determine what are reasonable lodging expenses. I find that any spending limits JA may have attempted to impose in the July 8 phone conversation were unilateral attempts to amend the agreed conditions of carriage, which I find had no effect.
16. Similarly, I reject Ms. Wice's contention that no limits applied simply because in JA's July 8 email confirming that Atlas would "cover" hotel costs JA did not state a limit or

reasonableness requirement. I find that the general language in that email did not override the agreed-upon reasonableness requirement stated in the conditions of carriage's article 6. Alternatively, I find it was implied in Atlas's offer to "cover" hotel costs that the hotel costs were reasonable.

17. The question is what are "reasonable" lodging expenses. When interpreting a contract, the meaning is determined by reference to the contract's words in their ordinary and grammatical meaning, consistent with the surrounding circumstances the parties knew or reasonably ought to have known when they entered into the contract (see *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53). I find that reasonable does not generally mean luxury or the best of something, nor does it mean the cheapest or most basic. It generally means something in the middle.
18. The parties provided little evidence about the surrounding circumstances. Atlas says \$250 was reasonable based on Airbnb rates. Elsewhere it says \$250 per night was reasonable based on "what accommodations were and are available" in the area, including hotels and Airbnb. However, Atlas provides no supporting evidence about accommodation availability or rates in the area in July 2022 or at any time. Atlas also does not explain whether its \$250 figure considers seasonal fluctuation in demand and price, or the effect of short-notice booking or pet-friendly requirements on availability and price. I find these are things Atlas knew or ought to have known when it contracted with Ms. Wice.
19. That said, as the applicant in this dispute and the party alleging a contract breach, Ms. Wice must show that \$250 per night was insufficient to cover reasonable lodging costs. It is undisputed that her stay at OBBH cost significantly more than \$250 per night. However, Ms. Wice does not dispute Atlas's contention that OBBH is one of the most expensive hotels on Vancouver Island.
20. Implicit in Ms. Wice's claim is that OBBH was the only, or one of the only, hotels available on short notice that could accommodate her, her child, and 2 dogs. However, I find she has not proven that to be the case. First, although she says she spent 4 hours calling hotels, she provided no supporting evidence such as phone

records, contemporaneous notes, or list of hotels she called. Second, she does not say she attempted to find accommodations through Airbnb or accommodations-searching websites, or explain why she could not. Third, although she expanded her search to Victoria, Nanaimo is geographically closer and she does not say she called any hotels in Nanaimo. The only objective evidence Ms. Wice provided that other hotels were not available was an email from a local Best Western hotel confirming that on July 9 and 10 it did not have a pet-friendly room available. I find this evidence insufficient to show that OBBH was one of the only places that could accommodate Ms. Wice.

21. That said, I find the Best Western email is the best available evidence about reasonable lodging rates. The hotel confirmed that on July 9 and 10, 2022, its rate was \$279 plus a \$20 pet fee and unspecified taxes. From the OBBH invoice I find that applicable taxes were around 15%.
22. Weighing the limited evidence before me, I find that a rounded figure of \$350 per night or \$700 for 2 nights represents the cost of “reasonable lodging” in the circumstances. I base conclusion this primarily on the Best Western rate, acknowledging that there were no suitable rooms in that hotel at the relevant time, but finding it unproven that similar accommodations were not available. As Atlas paid Ms. Wice \$500, I order Atlas to pay Ms. Wice a further \$200.
23. The *Court Order Interest Act* applies to the CRT. I find Ms. Wice is entitled to pre-judgment interest on the \$200 from August 1, 2022, the date I find Atlas reasonably should have reimbursed Ms. Wice, to the date of this decision. This equals \$4.20.
24. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to reimbursement of the CRT fees and reasonable dispute-related expenses. Ms. Wice was partially successful, so I find she is entitled to \$62.50 for half her \$125 in paid CRT fees. Atlas did not pay CRT fees, and neither party claims dispute-related expenses.

ORDERS

25. Within 21 days of the date of this order, I order Atlas to pay Ms. Wice a total of \$266.70, broken down as follows:
- a. \$200.00 in damages as reimbursement for hotel costs,
 - b. \$4.20 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 in CRT fees.
26. Ms. Wice is entitled to post-judgment interest, as applicable.
27. 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.

Micah Carmody, Tribunal Member