



Civil Resolution Tribunal

Date Issued: May 8, 2023

File: SC-2022-006052

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ho v. Jag's Furniture & Mattress*, 2023 BCCRT 379

BETWEEN:

LIN HO

APPLICANT

AND:

JAG'S FURNITURE & MATTRESS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about a retail sale of a dining table. The applicant, Lin Ho, says she bought a table from the named respondent, Jag's Furniture & Mattress (Jag). Ms. Ho

says the table is obviously defective, because the tabletop has an uneven finishing with an obvious brush stroke, whereas the showroom table had a smooth matte ceramic finishing. Ms. Ho asks for a replacement table (same model as ordered) or a \$2,212.50 refund. Ms. Ho also seeks \$500 for inconvenience, lost enjoyment, and emotional distress.

2. Jag denies the tabletop is defective, and says the table ordered and provided had a white Carrera marble top with a matte textured finish. Jag says the “uneven finishing” is just the matte textured finish, and that there is nothing wrong with the table’s quality. Jag says it owes nothing.
3. Ms. Ho is self-represented. Jag is represented by an employee.

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.
8. As noted above, Ms. Ho named the respondent as “Jag’s Furniture & Mattress”. I find it likely that “Jag’s Furniture & Mattress” is just a business or operating name, and I note prior CRT decisions have named this furniture store as “Jag’s M.J.M. Furniture Showcase Ltd. dba Jag’s Furniture and Mattress”. However, as named by Ms. Ho, Jag is not a legal entity with the capacity to enter into contracts. This means that even if Ms. Ho were to prove the table she bought was defective, she could not succeed in her claim against “Jag’s Furniture & Mattress” as named. It is up to the applicant to properly name a respondent. However, given my conclusion below dismissing the claim in any event, nothing turns on this.

ISSUES

9. The issues in this dispute are whether Jag sold Ms. Ho a defective table, and if so what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Ms. Ho must prove her 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. Ms. Ho did not provide any final reply submissions, despite having the opportunity to do so.
11. Ms. Ho undisputedly ordered a “W Dining Table” (W Table) in January 2022 and it was delivered in July 2022. While the parties make some reference to the delivery delay in their submissions, Ms. Ho seeks no remedy about the delay and did not mention it again in her later submissions. So, I make no findings about the delay. I say the same about an alleged issue with the W Table’s leg, which Ms. Ho appears

to indicate was resolved after installation. As discussed below, this dispute is specifically about the W Table's marble-looking top.

12. As noted above, Ms. Ho says the W Table's marble top is obviously defective. She says it has "uneven finishing" with an obvious brush stroke, whereas the showroom's table had "smooth matte ceramic finishing".
13. As also noted above, Jag says the W Table Ms. Ho received was exactly what she ordered and is not defective, and submitted email evidence saying so from that table's manufacturer or supplier, Mobital Design Group Inc. (Mobital). In particular, Jag says the paint brush strokes, ridges, and marks in the W Table make the "textured finish" that was part of the W Table's feature. Jag says Ms. Ho's submitted video, which she says shows a showroom table with a smooth finish, actually depicts a different table model, a Bridge Dining Table. Ms. Ho did not dispute this is a different table than the one she ordered, so I accept it. However, Jag says both tables have a textured finish, which is visible in Jag's close-up photo of the Bridge Dining Table's top. I agree with Jag that Ms. Ho's video of the Bridge Dining Table is taken from a distance. However, nothing turns on this given Ms. Ho bought a W Dining Table and given my conclusion below that I cannot find there is an obvious defect.
14. I have reviewed the parties' submitted photos and video evidence. Contrary to Ms. Ho's assertion, I cannot conclude the W Dining Table she received is obviously defective. While I accept that it has an uneven or textured finish, I find it is not obvious that this is a defect given the nature of the marble tabletop. In the absence of an obvious defect, in order for me to conclude this W Dining Table is defective I find it would require expert evidence. Here, there is none.
15. In short, both Jag and Mobital say the W Dining Table's tabletop finish is as intended and is not defective. Again, I cannot agree with Ms. Ho that the textured finish here is obviously defective. In the absence of expert evidence, I find it unproven the W Dining Table she received is defective. I dismiss her claim. It follows that I also dismiss her \$500 claim for inconvenience and emotional distress, which I find unproven in any event.

16. 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. As Ms. Ho was unsuccessful I find he is not entitled to reimbursement of paid CRT fees. Jag did not pay CRT fees and neither party claims dispute-related expenses.

ORDER

17. I dismiss Ms. Ho's claim and this dispute.

Shelley Lopez, Vice Chair