



# Civil Resolution Tribunal

Date Issued: August 3, 2023

File: SC-2022-006448

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Qu v. ICBC*, 2023 BCCRT 651

BETWEEN:

WEIGUO QU

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This small claims dispute is about an alleged motor vehicle accident. The applicant, Weiguo Qu, says the respondent insurer, Insurance Corporation of British Columbia (ICBC), incorrectly held him at fault for an alleged collision with a parked car. Mr. Qu denies there was any accident. Mr. Qu says his insurance premiums have increased

as a result of ICBC's decision and asks for reimbursement of the increase, which he values at \$500. Mr. Qu also asks that ICBC's decision be "changed".

2. ICBC says it reasonably held Mr. Qu at fault for the collision, given the material damage and a witness statement. It further says Mr. Qu has not proven any increased insurance premiums were related to this accident. It asks that I dismiss this claim.
3. Mr. Qu is represented by a family member who is not a lawyer. ICBC is represented by an authorized 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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that 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 that 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. Qu is entitled to compensation for increased insurance premiums.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, the applicant Mr. Qu must prove his claim on a balance of probabilities (meaning “more likely than not”). While I have read all of the parties’ submitted evidence and arguments, I have only addressed those necessary to explain my decision. Mr. Qu did not provide any final reply submissions despite the opportunity to do so.
10. On October 12, 2021, Mr. Qu was attempting to reverse his large van into a parking stall in a parkade in Richmond, British Columbia. ICBC says Mr. Qu’s vehicle collided with the vehicle parked in the adjacent stall and so it held him responsible for the accident. As noted, Mr. Qu denies there was any collision and says his insurance premiums have increased as a result of ICBC’s decision. He asks that ICBC reverse its decision and refund the overpaid premiums that he says resulted from this alleged collision, which he values at \$500.
11. Ordering someone to do something, or to stop doing something, is known as “injunctive relief”. This includes an order for ICBC to change its internal fault decision. Injunctive relief is outside the CRT’s small claims jurisdiction, except where permitted by section 118 of the CRTA. There are no relevant CRTA provisions that would permit me to grant the injunctive relief Mr. Qu seeks.
12. However, if Mr. Qu can prove he suffered damages (such as overpaid insurance premiums) due to ICBC improperly or unreasonably assessing the claim and

assigning fault, an award for those damages is within the CRT's small claims jurisdiction, up to the \$5,000 monetary limit.

13. I infer from Mr. Qu's submissions that he argues ICBC improperly or unreasonably held him at fault for a collision which Mr. Qu argues did not occur. As noted, ICBC says it reasonably investigated the incident and held Mr. Qu responsible.
14. ICBC owes Mr. Qu a duty of good faith, which requires ICBC to act fairly, both in how it investigates and assesses the claim, and in its decision about whether to pay the claim (see: *Bhasin v. Hrynew*, 2014 SCC 71 at paragraphs 22, 55, and 93). As noted in the Continuing Legal Education of BC's "*BC Motor Vehicle Accident Claims Practice Manual*", an insurer is not expected to investigate a claim with the skill and forensic proficiency of a detective. An insurer must bring "reasonable diligence, fairness, an appropriate level of skill, thoroughness, and objectivity to the investigation and the assessment of the collected information" (see: *MacDonald v. Insurance Corporation of British Columbia*, 2012 BCSC 283).
15. To succeed in his claim against ICBC, Mr. Qu must prove on a balance of probabilities that ICBC breached its statutory obligations or its contract of insurance, or both. So, the question is whether ICBC acted "properly or reasonably" in investigating the accident and assigning fault to Mr. Qu (see: *Singh v. McHatten*, 2012 BCCA 286, referring to *Innes v. Bui*, 2010 BCCA 322).
16. On October 12, 2021, a third party, D, reported to ICBC that their vehicle was damaged by Mr. Qu's vehicle while it was parked unattended in the Richmond parkade. D reported that their coworker, NM, saw Mr. Qu hit D's vehicle and reported the damage to D.
17. ICBC contacted Mr. Qu for his statement. In his initial statement Mr. Qu stated that he reverse parked into a stall in the parkade, but was between 2 poles and had no recollection of hitting another vehicle.
18. ICBC also obtained a statement from NM. In their statement NM says they were sitting in their car getting ready to leave for their work break. They said they watched

Mr. Qu's van attempt to reverse park into the stall several times in the space right next to D's vehicle. NM said Mr. Qu's vehicle was "getting really close" to D's vehicle, and Mr. Qu kept going back and forth trying to squeeze into the parking space when NM saw Mr. Qu's van scrape the passenger side bumper of D's vehicle. NM said once Mr. Qu was in the parking spot, NM left for their break. When NM returned, they said they saw Mr. Qu had moved his van to another parking space, away from D's vehicle.

19. ICBC's Material Damages department assessed the damage on both Mr. Qu's van and D's vehicle. A Material Damages Estimator, Michael Navarro, wrote that D's vehicle had scratches from 19.5 to 24.5 inches height on its right corner front bumper cover. Similarly, Mr. Navarro noted faint scuffs and black paint transfer on the rear cover assembly of Mr. Qu's van, from 19.5 to 24.25 inches height. Mr. Navarro's opinion was that the damage on both vehicles was the same approximate height range, with similar textures and transfers that correspond to the colour/texture of the other vehicle. The claim was also reviewed by Larry Kucher, Material Damages Operations Manager, who agreed with Mr. Navarro's assessment.
20. Neither of ICBC's employees' qualifications are before me, aside from their job titles. A job title in itself does not necessarily establish qualifications to provide expert evidence on the likely cause of vehicle damage. I find neither Mr. Navarro's nor Mr. Kucher's opinions qualify as expert evidence under the CRT's rules. However, I find the opinions were reasonably provided and relied on by ICBC in the course of its investigation of the incident and its decision that Mr. Qu and D's vehicles were involved in a collision. I accept their evidence about the likely match between the vehicles' damage, given their roles and experience, which are not in dispute.
21. As noted, Mr. Qu argues he did not come into contact with D's vehicle. In a later statement to ICBC and in this dispute, he says he only moved parking stalls because his van stuck out from the first parking stall and was blocking traffic using the parkade.
22. Additionally, Mr. Qu says he spoke with a third-party accident reconstruction team who told him he would not have been able to cause D's vehicle damage. However,

Mr. Qu says it was too expensive to get a report, so he did not. So, this statement is hearsay. While the CRT is permitted to accept hearsay evidence in certain circumstances, I decline to do so in this case. I find there is no way to verify the truthfulness of or basis for the alleged opinion.

23. Based on the evidence before me, I find ICBC reasonably took statements from the drivers involved, the witness, had its employees investigate the vehicles' damage, and inquired with the property owner about surveillance footage. On balance, I find Mr. Qu has not proven ICBC breached its statutory obligations or its contract of insurance, or that it acted unreasonably or improperly in investigating the accident and assigning fault. As a result, I dismiss Mr. Qu's claim.
24. Given I dismiss Mr. Qu's claim, I do not need to discuss his damages claim in any detail. However, I note that ICBC argues Mr. Qu has not proven his insurance premiums went up as a result of this accident. Mr. Qu provided a copy of his insurance policies from 2021/2022 (before the accident) and from 2022/2023 (after the accident), which show a \$454 increase. ICBC says there are many factors that go into calculating insurance premiums, including the vehicle's garaging address, which ICBC says Mr. Qu changed between the 2 policies.
25. While I accept that many factors go into calculating insurance premiums, I also find that how an individual's Autoplan insurance premiums are calculated is information within ICBC's control. ICBC did not provide any other evidence or information about Mr. Qu's undisputed increase in insurance rates, other than mentioning the garaging address is a factor.
26. The CRT may draw an adverse inference when a party fails to provide relevant evidence without a good explanation. Here, ICBC undisputedly has the ability to calculate and provide the difference between Mr. Qu's insurance premiums based on being held at fault for the October 12, 2021 accident. ICBC is a sophisticated litigant and should understand the requirement to provide all relevant evidence in a dispute. So, had I not dismissed Mr. Qu's claim, I would have found an adverse inference

against ICBC appropriate here. However, given my earlier conclusion, nothing turns on this.

27. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Mr. Qu was not successful, so I dismiss his claim for reimbursement of tribunal fees. ICBC did not pay any fees or claim dispute-related expenses.

## **ORDER**

28. Mr. Qu's claims, and this dispute, are dismissed.

---

Andrea Ritchie, Vice Chair