



# Civil Resolution Tribunal

Date Issued: September 7, 2023

File: SC-2022-002906

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wong v. ICBC*, 2023 BCCRT 760

BETWEEN:

ROXANNA WONG

**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 vehicle damage. The applicant, Roxanna Wong, says their vehicle was damaged when one of its wheels fell off while driving. Ms. Wong reported the damage to the respondent insurer, Insurance Corporation of British Columbia (ICBC). Ms. Wong had their vehicle repaired but had to pay a \$500 deductible. Ms. Wong says ICBC improperly investigated the accident and held Ms.

Wong 100% responsible for the accident, when they should have 0% responsibility. Ms. Wong seeks \$500 as a refund of their paid deductible.

2. ICBC says it properly investigated the vehicle damage and assigned Ms. Wong with 100% fault given it was a single-vehicle accident. It denies owing Ms. Wong any money.
3. Ms. Wong is self-represented. 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 Ms. Wong is entitled to a \$500 refund of their paid deductible.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, the applicant Ms. Wong must prove their claims 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.
10. On December 8, 2021, Ms. Wong was on their way to a car dealership to have their 2016 BMW i3 looked at because Ms. Wong noticed one of the wheels was making noise. While Ms. Wong was driving, the BMW’s left rear wheel fell off and the vehicle was damaged. Ms. Wong reported the damage to ICBC.
11. Ms. Wong informed ICBC that on November 19, 2021, they had the BMW’s tires changed at Kal-Tire. Ms. Wong suggested to ICBC that Kal-Tire must have negligently torqued the tire’s nuts, leading to the nuts loosening and the wheel ultimately falling off.
12. ICBC accepted the claim as a “collision” claim under Ms. Wong’s insurance policy. Ms. Wong’s vehicle was repaired, but was subject to a \$500 deductible which Ms. Wong paid. Ms. Wong says they should not be responsible for paying the \$500 deductible given Kal-Tire’s alleged negligence. Kal-Tire is not a party to this dispute. Ms. Wong argues ICBC failed to fully investigate the claim and improperly assigned Ms. Wong 100% responsibility for the accident.
13. ICBC says it was a single-vehicle accident and there is insufficient evidence Kal-Tire was responsible for damage. It says it properly held Ms. Wong responsible for the BMW’s damage.

14. To succeed in their claim against ICBC, Ms. Wong must prove on a balance of probabilities that ICBC breached its statutory obligations or its contract of insurance, or both. The issue is whether ICBC acted “properly or reasonably” in administratively assigning responsibility solely against Ms. Wong (see: *Singh v. McHatten*, 2012 BCCA 286). As a single-vehicle accident, I find Part 11 of the *Insurance (Vehicle) Act*, “Basic Vehicle Damage Coverage” does not apply.
15. ICBC owes Ms. Wong 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 paragraph 33, 55 and 93). As noted in the Continuing Legal Education Society 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: *McDonald v. Insurance Corporation of British Columbia*, 2012 BCSC 283).
16. As noted, Ms. Wong argues ICBC failed to properly investigate the cause of the vehicle’s tire falling off, while ICBC argues there is insufficient evidence to prove any negligence by Kal-Tire. Ms. Wong says Kal-Tire clearly failed to re-torque the tire’s nuts. Ms. Wong provided a witness statement from JDD, the person who picked up Ms. Wong’s vehicle from Kal-Tire. In their statement JDD says they did not see Kal-Tire torque the tire nuts.
17. The evidence before me shows that ICBC reviewed the time between when the tire was replaced (November 19, 2021) and the accident date (December 8, 2021), plus the mileage driven over those 19 days. The Kal-Tire invoice in evidence records Ms. Wong’s mileage on November 19, 2021 as 100,397 km and the mileage on December 16, 2021, when the vehicle was taken to a repair shop, was 107,654 km. On the evidence before it, ICBC determined it was unlikely that improperly tightened tire nuts led to the wheel coming loose given the vehicle had traveled over 7,000 km in 19

days, an average of approximately 382 km per day. So, it found Ms. Wong was responsible for the deductible under their collision insurance policy.

18. During the course of this dispute, ICBC reached out to Kal-Tire and determined that Ms. Wong's mileage was actually 106,397 km when the tires were changed, which means the vehicle traveled a total of 1,257 km before the wheel came off, or approximately 66 km per day. ICBC argues the amount of time and kilometres driven is still too high to attribute the wheel falling off to Kal-Tire's work. ICBC says there is no evidence Kal-Tire failed to tighten the tire nuts, and that just because JDD did not see Kal-Tire torque the nuts, does not mean it failed to do so. I agree, and also note Kal-Tire's invoice indicates it did torque the tire nuts. Notably, neither party provided any expert evidence about torquing tire nuts or the expected travel distance before loose nuts would cause a tire to fall off.
19. Based on the evidence before me, I find ICBC reasonably investigated Ms. Wong's claim. I find it took statements and regularly communicated with Ms. Wong, and reasonably relied on the documentation Ms. Wong provided it. Although it later found out the mileage as stated in Kal-Tire's invoice was incorrect, I find ICBC reasonably relied on the information it had during its investigation.
20. On balance, I find Ms. Wong has not proven ICBC acted improperly or unreasonably in investigating the claim and assigning responsibility for the BMW's damage to Ms. Wong. I dismiss Ms. Wong's claim against ICBC.
21. Nothing in this decision prevents Ms. Wong from making a claim against Kal-Tire, subject to any limitation period. For clarity, I make no findings about whether Kal-Tire was negligent.
22. 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. Ms. Wong was not successful, so I dismiss their claim for reimbursement of tribunal fees. ICBC did not pay any tribunal fees and neither party claimed dispute-related expenses.

**ORDER**

23. Ms. Wong's claims, and this dispute, are dismissed.

---

Andrea Ritchie, Vice Chair