



# Civil Resolution Tribunal

Date Issued: October 11, 2023

File: SC-2022-008859

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Currie v. 2 Burley Men Moving Ltd.*, 2023 BCCRT 861

B E T W E E N :

DAN CURRIE

**APPLICANT**

A N D :

2 BURLEY MEN MOVING LTD.

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Peter Mennie

## INTRODUCTION

1. This is a dispute about moving services. The applicant, Dan Currie, hired 2 Burley Men Moving Ltd. (Burley), for a residential move. Mr. Currie says that Burley did not move all their belongings in time and they were forced to rent a van to complete the move. Mr. Currie also says that Burley lost some items, delivered other items late, and damaged a wall in their new home.

2. Burley says that Mr. Currie had a larger shipment than expected and that it tried to accommodate them. Burley says it was Mr. Currie's choice to hire a van so it should not be responsible for this cost. Burley has agreed to pay for the cost of one missing item and the damage to Mr. Currie's wall.
3. Mr. Currie is self-represented. Burley 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). Section 2 of the CRTA states 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.
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. I decided to hear this dispute through written submissions because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
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.

## **ISSUES**

8. The issues in this dispute are:

- a. Should Burley reimburse Mr. Currie for their moving costs?
- b. Should Burley pay damages to Mr. Currie for the damage to their wall and the lost items?

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, the applicant Mr. Currie must prove their claim on a balance of probabilities. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain and give context to my decision. I note Mr. Currie did not provide any final reply submissions, despite having the opportunity to do so.

### ***Van rental, BC Ferries ticket, and fuel costs***

10. Mr. Currie says they contacted Burley to move their belongings from their home in the Okanagan to their new home on Vancouver Island. Mr. Currie says two weeks prior they confirmed with Burley that the move would be on October 26, 2022. Mr. Currie says Burley's mover arrived on October 26, 2022, with a truck more than half full of someone else's belongings and was not able to transport all their belongings. Mr. Currie was left with many of their belongings in the Okanagan home.
11. Mr. Currie emailed Burley on October 26, 2022, and said that the new owner of their home was taking possession on October 27, 2022. Mr. Currie told Burley that all their belongings needed to be moved before this date. Burley responded that it could move Mr. Currie's items on October 28, 2022. Mr. Currie replied that this was not soon enough and that they would be renting a van to move their items.
12. There is no written contract in evidence. Both parties submitted a waybill dated October 24, 2022, which lists a \$6,604.20 payment for transport from the Okanagan to Vancouver Island. The date of delivery is blank. I find that the waybill reflects the parties' oral agreement to move Mr. Currie's belongings on October 26, 2022.

13. Burley says Mr. Currie had a larger shipment than when they initially requested the move. Burley says it offered to move the excess items on October 28, 2022, and it was Mr. Currie's choice to rent a van. I do not accept that Mr. Currie had a larger shipment than expected. As a company engaged in the moving business, I find that Burley would have made appropriate inquiries about the volume of Mr. Currie's belongings and that Burley knew how much truck space was required.
14. Mr. Currie confirmed the moving date two weeks prior. Burley provided no statements from its employees to challenge this evidence. I find that Burley was aware that Mr. Currie was moving houses and should reasonably have foreseen that a 2-day delay could cause Mr. Currie to incur expenses. I find that Burley's failure to transport all of Mr. Currie's belongings on October 26, 2022, was a breach of the parties' agreement and that Mr. Currie is entitled to damages.
15. I find that it was reasonable for Mr. Currie to rent a moving van and pay for a BC Ferries ticket and fuel. I note that the credit card statements Mr. Currie submitted for the BC Ferries ticket and fuel cost are slightly different than what is claimed in the Dispute Notice. I find Mr. Currie paid the amounts as reflected on the credit card statements. I order Burley to reimburse Mr. Currie \$1,034.45 for the van rental, \$118.35 for the BC Ferries ticket, and \$250 for fuel costs, for a total of \$1,402.80.

### ***Missing items and damage to wall***

16. In the Dispute Notice, Mr. Currie claims damages for two missing guitars, a missing keyboard, a missing rug, and repairs to their wall which they say Burley damaged.
17. I find that Burley owed Mr. Currie a duty of care to transport their belongings with the competence and skill of a reasonable moving company. While I am not bound by it, I agree with the CRT decision in *Wilson v. 2 Burley Men Moving Ltd.*, 2021 BCCRT 1133, which held that an applicant does not need to provide expert evidence where the mover's conduct is so obviously below the standard of care. I find that Burley fell below its standard of care by losing items and damaging Mr. Currie's wall. I find that Mr. Currie is entitled to damages.

18. Mr. Currie says that their missing rug is worth \$190 and that it cost \$75 to repair the wall of their new home. Burley has agreed to pay these damages. As the parties agree on these points, I order Burley to pay Mr. Currie \$190 for their missing rug and \$75 for the wall repair.
19. The two guitars and keyboard were undisputedly returned to Mr. Currie in February 2022 after they started this CRT dispute so I make no award for these claims.
20. Mr. Currie says they labelled boxes to be moved to different parts of their new house and asked Burley to assemble their furniture. I note that Mr. Currie did not request a remedy for this alleged breach. In any event, there is no evidence that the parties' agreement required Burley to unload moving boxes to specific rooms or assemble furniture. I find that Burley did not breach the parties' agreement by unloading the boxes to one room of Mr. Currie's house and not assembling Mr. Currie's furniture.
21. Mr. Currie asks for a review of the weight of their shipment and the price charged by Burley. Again, Mr. Currie did not request a remedy for this alleged breach. Burley says Mr. Currie saw the weight and agreed to the price before moving. The waybill lists the weight and price and is signed by Mr. Currie. Mr. Currie did not provide any final reply submissions so I accept Burley's evidence. I find that Mr. Currie confirmed the weight and agreed to the price of Burley's services. I decline to make any award here.

### ***Interest, CRT Fees, and expenses***

22. The *Court Order Interest Act* applies to the CRT. Mr. Currie is entitled to pre-judgment interest on the van rental, BC Ferries ticket, and the fuel cost from October 27, 2022, the date Mr. Currie paid these expenses, to the date of this decision. This equals \$54.86.
23. There is no evidence that Mr. Currie has paid for the damage to their wall or the missing rug. I do not order pre-judgment interest on these awards.

24. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. Mr. Currie was largely successful in this dispute. Mr. Currie is entitled to reimbursement of \$125 in CRT fees.

## **ORDERS**

25. Within 30 days of the date of this decision, I order Burley to pay Mr. Currie a total of \$1,847.66, broken down as follows:

- a. \$1,667.80 as damages,
- b. \$54.86 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in CRT fees.

26. Mr. Currie 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.

---

Peter Mennie, Tribunal Member