



Civil Resolution Tribunal

Date Issued: November 23, 2023

File: SC-2022-009609

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Stewart v. Mobarez (dba BC Computers)*, 2023 BCCRT 1013

B E T W E E N :

JAMES STEWART

APPLICANT

A N D :

AREF MOBAREZ (Doing Business As BC COMPUTERS)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. This dispute is about a refund for tablet repairs.
2. The applicant, James Stewart, took his Microsoft Surface Go tablet to the respondent, Aref Mobarez (doing business as BC Computers), for repairs. The applicant says the respondent failed to complete the repairs as agreed, and refused to refund the

applicant the \$257.60 he paid for the repairs. The applicant claims \$257.60 for the repairs.

3. The respondent says they offered to return the applicant's device to him and to refund the applicant's payment on presentation of the original sales receipt. However, the respondent says the applicant was unwilling to pick up the device, or to provide the receipt to facilitate the refund.
4. The parties are each self-represented.

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.
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. 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.
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.
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.

9. In submissions, the respondent says they are willing to refund the applicant the claimed \$257.60 without a receipt if the applicant agrees to pay all CRT fees related to this dispute, and to remove “any negative reviews of our business from Google, Yelp, or any other online platforms that might harm our reputation which we have worked so hard to build.” The respondent did not file a counterclaim. Even if they had filed a counterclaim, I would have found it did not fall under the CRT’s small claims jurisdiction. This is because the requested remedy is for “injunctive relief”, meaning an order that a person do or stop doing something. With limited exceptions that do not apply here, injunctive orders are outside the CRT’s small claims jurisdiction.

ISSUE

10. The issue in this dispute is whether the applicant is entitled to a refund of \$257.60 for the tablet repairs.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities (meaning more likely than not). I have read all the parties’ submissions and evidence but refer only to the evidence and argument that I find necessary to explain my decision. The respondent did not provide any documentary evidence, despite having the opportunity to do so.
12. The undisputed background is as follows. On October 21, 2022, the applicant dropped his tablet off with the respondent to have the battery and screen replaced. The respondent quoted the applicant \$230 plus tax for the repairs, and said they would take between 2 and 5 days. The applicant answered “Okay, sounds good”.
13. On October 27, the respondent texted the applicant to advise that its supplier was delayed in delivering the new battery, that the tablet was unlikely to be ready until early the following week, and that they were sorry for the delay. The respondent then advised the applicant that the tablet was ready for collection on November 1. The

applicant collected the tablet and undisputedly paid \$257.60 for the repairs on November 2.

14. The applicant says that when he tested the tablet, he found it would not hold a charge and immediately shut down when disconnected from the charging cable. So, he took it back to the respondent on November 2 for further repairs, which the parties agree were under warranty. The applicant says when he returned the tablet, he gave the respondent the receipt. I accept this is what happened, as the respondent does not explicitly dispute it.
15. Text messages between the parties show that on November 11, the respondent advised the applicant they were still working on the tablet. The applicant told the respondent that prior to the battery being replaced, the tablet would charge and hold a charge without any problems. On November 16, the applicant requested an update. The respondent answered on November 18. They advised that they had tested the replacement battery before installing it and suspected the issue might be with “the connector or board”. However, the respondent said they had ordered another battery and that it would be arriving that day (Friday) or Monday. The respondent again apologized for the delay.
16. On November 26, the applicant texted the respondent asking for his tablet back and for a refund of the repair payment, as it had been over a month since he had first dropped the tablet off. The respondent texted back on November 29 asking for the applicant’s ticket number, which the applicant provided. There are no further text messages between the parties in evidence.
17. The applicant says he then went to the respondent’s shop for several days in a row beginning December 1 to try, unsuccessfully, and retrieve the tablet. On December 3, he says the respondent gave him back his tablet, but it still did not work and would not even “boot up into windows”, so he again requested a refund. The applicant says the respondent would not give him a refund without the original sales receipt, which he had left with them when he took the tablet back on November 2. He says he returned to the shop later on December 3 with a printed copy of payment confirmation

the respondent had emailed him, the invoice, and bank records showing the transaction, but was advised this was insufficient for a refund.

18. For their part, the respondent says that when the applicant brought his tablet in for repairs, he agreed to the respondent's terms and conditions "by signing". The respondent says the terms and conditions included that they were not required to provide a refund without the original sales receipt.
19. However, as noted above, the respondent did not submit any documentary evidence in this dispute, including evidence of the applicant's signed agreement to its terms and conditions. So, I find the applicant was not contractually obliged to provide the original sales receipt to receive a refund. Even if he had been required to provide the receipt, I find he did so when he undisputedly gave it to the respondent on returning the tablet on November 2.
20. The respondent does not dispute that they did not repair the applicant's tablet as agreed. In particular, they do not say that they repaired the tablet, but that the tablet's subsequent failure to hold a charge was a separate issue not covered by the original agreement or their warranty. The respondent suggested to the applicant that the charging problem might have to do with the tablet's connector or board and not with the battery replacement, but there is no evidence that this was the case.
21. In these circumstances, I find the respondent failed to repair the applicant's tablet as the parties agreed. So, I find the applicant is entitled to a refund of his \$257.60 repair payment. The applicant did not request the return of his tablet, which is undisputedly still in the respondent's possession, so I make no order for that.
22. The *Court Order Interest Act* (COIA) applies to the CRT. The applicant is entitled to pre-judgment interest on the \$257.60 damages award from November 26, 2022, the date the applicant first requested a refund, to the date of this decision. This equals \$11.22.
23. 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 find the applicant is entitled to reimbursement of \$125 in CRT fees. The applicant did not claim dispute-related expenses.

ORDERS

24. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$393.82, broken down as follows:
 - a. \$257.60 in damages, as reimbursement for the failed tablet repairs,
 - b. \$11.22 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
25. The applicant is entitled to post-judgment interest, as applicable.
26. 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.

Megan Stewart, Tribunal Member