



Civil Resolution Tribunal

Date Issued: December 1, 2023

File: SC-2023-001048

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Reimer v. Strongman Delivery Inc.*, 2023 BCCRT 1048

BETWEEN:

ROBERT ALEXANDER REIMER

APPLICANT

AND:

STRONGMAN DELIVERY INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about payment for vehicle damage. The applicant, Robert Alexander Reimer, says the respondent movers, Strongman Delivery Inc. (Strongman), damaged his 1997 BMW 328is car. He seeks reimbursement for car repairs equal to \$4,936.67.

2. Strongman agrees its driver damaged the car. However, it says Mr. Reimer's claim is out of time. It also argues alternatively that its liability should be limited to \$2,562.94. It says this was the car's actual cash value at the time it was damaged.
3. Mr. Reimer represents himself. A representative for the Insurance Corporation of British Columbia (ICBC) represents Strongman.
4. For the reasons that follow, I find Mr. Reimer has partially proven his claim.

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.

ISSUES

9. The issues in this dispute are as follows:
 - a. Is Mr. Reimer's claim out of time?
 - b. If not, to what degree is Mr. Reimer entitled to compensation for car damage?

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Mr. Reimer as the applicant must prove his claims on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision. Mr. Reimer did not provide reply submissions though he had the opportunity to do so.
11. The following facts are undisputed. On February 2, 2021, Strongman's delivery truck backed into Mr. Reimer's parked car. Mr. Reimer reported the accident to ICBC. He obtained a March 10, 2021 repair quote for \$4,521.82.
12. ICBC's settlement representative emailed Mr. Reimer on March 19, 2023. They said the car's estimated pre-accident value was \$2,562.94, inclusive of tax. The representative said the car was a write-off and not worth repairing.
13. Mr. Reimer disagreed. A May 12, 2021 final invoice and receipt show he ultimately paid \$4,936.67 to repair the car. This equals the claim amount.

Issue #1. Is Mr. Reimer's claim out of time?

14. Strongman says Mr. Reimer's claim is out of time. Mr. Reimer did not reply to this submission.
15. Section 6 of the *Limitation Act* says that the basic limitation period is 2 years, and that a claim may not be started more than 2 years after the day on which it is "discovered". Under section 8, a claim is discovered when the applicant knew or reasonably ought

to have known they had a claim against the respondent and a court or tribunal proceeding was an appropriate means to seek a remedy. CRTA section 13.1 says the basic limitation period under the *Limitation Act* does not run after the applicant requests dispute resolution with the CRT.

16. It is undisputed that the accident occurred on February 2, 2021. This is also reflected in other documents, such as the repair estimate and ICBC's estimate. So, I find Mr. Reimer likely discovered his claim on this date. I also find he had to apply for dispute resolution before February 2, 2023.
17. The Dispute Notice says Mr. Reimer applied for dispute resolution on January 30, 2023. This is slightly before the deadline of February 2, 2023. Strongman did not suggest other dates applied or explain why Mr. Reimer's claim was out of time. Given my conclusions, I decline to dismiss Mr. Reimer's claim as out of time. I turn to the next issue.

Issue #2. To what degree is Mr. Reimer entitled to compensation for car damage?

18. As noted above, it is undisputed that Strongman's truck damaged Mr. Reimer's parked car. I find that Mr. Reimer claims damages for negligence. To prove negligence, Mr. Reimer must show that Strongman owed him a duty of care, that it breached the standard of care, that Mr. Reimer sustained damage, and that the damage was caused by Strongman's breach. See *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.
19. I find that Strongman owed Mr. Reimer a duty of care to drive carefully and avoid hitting his parked car. I find Strongman breached the standard of care. This is because Strongman did not say the collision was unavoidable or deny fault for causing it. The main issue the parties disagree on is damages.
20. Damages for torts affecting property are assessed based on the value of the property to the owner. Loss is typically evaluated based on market value, but in some cases market value may not accurately reflect the value of the property to the owner. Value

attributed to the owner beyond market value cannot be an unreasonable amount, and generally does not take sentimental value into account, except in special circumstances, such as where there is a claim for mental distress or a deliberate act of wrongdoing. See *Lepage v Bowen Island Municipality*, 2021 BCSC 1077 at paragraphs 28 to 29.

21. The usual rule with respect to the time of assessing damage to property is that damages are assessed at the time of the loss. See *Mann v. Bains et al.*, 2006 BCSC 837 at paragraph 36.
22. Mr. Reimer relies on a May 6, 2023 estimate that provides a value of \$18,000 for his car. He says that he should be entitled to the full cost of repairing the damage. Strongman relies on a Specialty Comparable Valuation Report of February 19, 2021, prepared for ICBC. The February 2021 report says that the car had a market value of \$2,562.94 inclusive of tax at the time of the accident. Strongman says that Mr. Reimer's damages should be limited to this value.
23. The May 2023 estimate was written by an appraiser, DS. DS did not outline their qualifications. The report said that Mr. Reimer purchased the car in 2010 for \$12,000. It also noted that the car had improvements that added about \$5,900 to the car's value. It said the car was worth \$12,100 without these improvements, and \$18,000 with them. The estimate did not say if the improvements were present at the time of the accident.
24. The May 2023 estimate said that the car's condition was 5 out of 5. It said it had a history of enthusiast owners that cared for the car beyond normal maintenance. It also said the car was "sought after by enthusiast BMW fans and collectors".
25. The appraisal data included 4 sales. The transaction closest in time to the date of the accident was March 17, 2021 for £5,100. That sale completed in the United Kingdom. The other data came from transactions in the USA. The appraisal also said that the Insurance Guide listed this type of car at a value of \$8,000 USD.

26. The estimate did not provide any opinion on the car's value as of February 2021. The May 2023 estimate noted that the "collector car market [is] presently increasing rapidly". So, I find that during the 2-year gap from the accident to this estimate, the market conditions likely changed to increase the car's value by some unstated amount.
27. I turn to the February 2021 report. It had no named author. It was based on data close in time and geography to where the accident occurred. The report's estimate was based on 2 local ads in BC from February 2021. It rated the condition of Mr. Reimer's specific car as 3 out of 5. I note this is lower than the May 2023 estimate. The February 2021 report contains much less detail than the May 2023 estimate. It does not say what cars of this type generally cost.
28. The gap between the 2 estimates is considerable. Both have different strengths and weaknesses, detailed above. Generally, the May 2023 estimate contained more details and comments about Mr. Reimer's car and this class of cars. The February 2021 report used 2 stronger comparable car sales based on location and time of sale.
29. Ultimately, I find that the February 2021 report, even if accurate, did not accurately reflect the value of the property to Mr. Reimer. I say this because the May 2023 estimate shows the car was collectible in nature. The ownership history and appraiser comments both reflected this. I also find the fact that the car seeming appreciated in value reflects its collectible nature, as noted in the May 2023 estimate.
30. Mr. Reimer also spent \$10,000 to purchase the vehicle. While I acknowledge cars generally depreciate in value, I find this is not necessarily the case with a collectible car.
31. I find that treating the car as a write-off did not truly reflect its value. Instead, I find the cost of repairs reflected Mr. Reimer's loss more accurately. I also find that both estimates show that the repairs were within a reasonable amount of the market value.

32. The *Court Order Interest Act* applies to the CRT. Mr. Reimer is entitled to pre-judgment interest on damages of \$4,936.67 from May 13, 2021, the date he paid for repairs, to the date of this decision. This equals \$262.70.
33. 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. Reimer proved his claim, so I find he is entitled to reimbursement of \$175 in CRT fees. I also find Mr. Reimer reasonably incurred \$219.45 for the May 2023 estimate. I relied on it and found it relevant to this dispute. I order Strongman to reimburse Mr. Reimer this amount as a dispute-related expense.

ORDERS

34. Within 30 days of the date of this order, I order Strongman to pay Mr. Reimer a total of \$5,583.82, broken down as follows:
- a. \$4,936.67 as reimbursement for car repairs,
 - b. \$252.70 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$394.45, for \$175 in CRT fees and \$219.45 for dispute-related expenses.
35. Mr. Reimer is entitled to post-judgment interest, as applicable.
36. 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.

David Jiang, Tribunal Member