



# Civil Resolution Tribunal

Date Issued: March 6, 2024

File: SC-2023-005660

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Chima v. Five Corners Furniture Gallery Inc.*, 2024 BCCRT 222

BETWEEN:

JESSIE CHIMA

**APPLICANT**

AND:

FIVE CORNERS FURNITURE GALLERY INC.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. This dispute is about a furniture purchase.
2. Jessie Chima purchased 3 sofas from Five Corners Furniture Gallery Inc. (Five Corners) for \$1,659.70. Mr. Chima says a few days after he purchased the sofas, Five Corners told him the selected sofas were out of stock, and tried to sell him

different furniture. Mr. Chima says he asked for a refund, but Five Corners refused to refund him for the sofas he purchased but did not receive. He also alleges that Five Corners engaged in deceptive pricing and bait and switch tactics. Mr. Chima claims a \$1,659.70 refund for the sofas, and \$3,340.30 in punitive damages for the alleged deceptive pricing and bait and switch tactics.

3. Five Corners disputes Mr. Chima's claims. It says it has already refunded Mr. Chima for the sofas, and denies engaging in any deceptive pricing or bait and switch tactics.
4. Mr. Chima is self-represented. Five Corners is represented by a person I infer is a principal or authorized employee.

## **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.
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:
  - a. Must Five Corners refund Mr. Chima \$1,659.70 for the sofas?
  - b. Does the CRT have jurisdiction over Mr. Chima's claim for punitive damages based on alleged bait and switch tactics?
  - c. If yes, to what extent is Mr. Chima entitled to \$3,340.30 in punitive damages?

## EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Mr. Chima must prove his claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties' submissions and evidence but refer only to what I find necessary to explain my decision.

### ***Must Five Corners refund Mr. Chima \$1,659.70 for the sofas?***

11. On February 1, 2023, Mr. Chima purchased 3 sofas from Five Corners for \$1,659.70. Mr. Chima says about 3 days after he purchased the sofas, he was told the sofas were not in stock. Mr. Chima says he initially looked at purchasing different sofas, but did not do so. Mr. Chima says he asked Five Corners to refund him for the purchased sofas in April 2023, but was met with excuses. He says Five Corners did not refund him for the sofas.
12. As noted, Five Corners says it has already refunded Mr. Chima for the sofas. Five Corners provided a September 22, 2023 receipt that shows it refunded Mr. Chima \$1,659.70 on September 22, 2023. Mr. Chima did not amend his Dispute Notice to remove his refund claim. However, in submissions Mr. Chima agrees that Five Corners has refunded him for the sofas. He says he received the refund on his credit card on September 22, 2023. He says he did not withdraw his claim because he still wants reimbursement for his CRT fees. Given that Five Corners has already refunded

Mr. Chima \$1,659.70 for the sofas, I find it is not responsible to refund Mr. Chima anything further. I will address Mr. Chima's CRT fees further below.

***Does the CRT have jurisdiction over Mr. Chima's claim for punitive damages based on alleged bait and switch tactics?***

13. In the Dispute Notice and his submissions, Mr. Chima alleges that Five Corners engaged in deceptive pricing and employed bait and switch tactics contrary to the federal *Competition Act*. Mr. Chima alleges Five Corners advertised the sofas at a heavily discounted price in order to bring people into its store. As noted, he says Five Corners advised him that the purchased sofas were out of stock, and tried to sell him different furniture. Mr. Chima alleges Five Corners never planned to give him the original purchased sofas, and instead planned to get him to purchase more expensive sofas. As noted, Mr. Chima claims \$3,340.30 in punitive damages for the alleged bait and switch tactics.
14. Bait and switch selling may be prosecuted under the federal *Competition Act*. However, the Competition Bureau administers and enforces the *Competition Act*. Sections 36(1) and 74.1 allow a person or the Competition Bureau to apply to court for certain remedies, including compensation for loss and administrative monetary penalties. The CRT is not a court and has no jurisdiction over such claims. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. So, to the extent Mr. Chima alleges Five Corners engaged in deceptive pricing and bait and switch tactics in breach of the *Competition Act*, I refuse to resolve such a claim under CRTA section 10(1).

***CRT fees and expenses***

15. 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.
16. Five Corners says it should not have to reimburse Mr. Chima's CRT fees because it had no issue providing Mr. Chima a refund to begin with, and says Mr. Chima could

have come in to get a refund without issue. Mr. Chima says he gave Five Corners ample time to provide a refund and says while Five Corners made promises to call him back to arrange a refund, it never did.

17. In an April 28, 2023 recording in evidence, a Five Corners employee told Mr. Chima they would look into a credit card refund issue and then call him to sort out the refund. Five Corners did not dispute this evidence, and admits it forgot to call Mr. Chima back. The evidence shows Five Corners did not provide a refund until September 2023, over 2 months after Mr. Chima started this CRT dispute. Therefore, I find Mr. Chima was partially successful in this dispute because he received a full refund after starting this CRT dispute, and is reasonably entitled to reimbursement of \$87.50 for half his paid CRT fees. Neither party claimed dispute-related expenses.

## **ORDERS**

18. Within 30 days of the date of this order, I order Five Corners to pay Mr. Chima \$87.50 in CRT fees.
19. Mr. Chima is entitled to post-judgment interest, as applicable.
20. Under CRTA section 10(1), I refuse to resolve Mr. Chima's claim for \$3,340.30 in punitive damages.
21. This is a validated decision and order. 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.

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Leah Volkens, Tribunal Member