



# Civil Resolution Tribunal

Date Issued: March 11, 2024

File: SC-2022-009849

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jason v. ICBC*, 2024 BCCRT 244

BETWEEN:

AL JASON

**APPLICANT**

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA and CITY  
FURNITURE AND APPLIANCES (KAMLOOPS) LTD.

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. This small claims dispute is about motor vehicle damage from a December 22, 2020 collision. Al Jason's<sup>i</sup> vehicle was undisputedly rear-ended by a vehicle owned by City Furniture and Appliances (Kamloops) Ltd. (City Furniture). Insurance Corporation of British Columbia (ICBC) insures both vehicles. Al Jason says the respondents initially

agreed to pay for Al Jason's vehicle repairs, but then refused to do so because there was pre-existing vehicle damage. Al Jason says they are only seeking compensation for the damage caused by the collision. They claim \$2,348.33 in damages to replace their vehicle's damaged bumper and back-up camera.

2. The respondents do not dispute that the collision damaged Al Jason's vehicle's bumper. However, they say Al Jason did not suffer any loss because the bumper had previous unrelated and unrepaired damage, and already required replacement before the collision occurred. The respondents deny owing Al Jason anything for the bumper damage, but say they will consider compensating Al Jason for proven back-up camera costs. ICBC also says it is not a proper party to the dispute.
3. Al Jason is self-represented. An ICBC employee represents both the respondents.

## **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.
5. 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.
6. 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.

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.

### ***Late Evidence***

8. Both Al Jason and ICBC provided late evidence. Al Jason provided a screenshot of an order confirmation for a back-up camera. ICBC provided an expert report from an engineer. The parties were provided with an opportunity to review and provide submissions on this late evidence, so I find there is no actual prejudice in allowing this late evidence. Consistent with the CRT's flexible mandate, I have allowed and considered this late evidence as I find it relevant.

### **ISSUE**

9. The issue in this dispute is to what extent, if any, either respondent is responsible to pay Al Jason damages for the vehicle damage.

### **EVIDENCE AND ANALYSIS**

10. As the applicant in this civil proceeding, Al Jason must prove their 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.
11. At the outset, I dismiss Al Jason's claims against ICBC. Al Jason did not make any allegations directly against ICBC. Rather, he alleges that the respondents would not compensate him for his vehicle damage. I find this is an allegation against ICBC only as City Furniture's insurer. So, I find the proper respondent for this claim is City Furniture. I find Al Jason has not proven ICBC was negligent or breached any of its obligations to Al Jason, so I dismiss Al Jason's claims against ICBC.
12. As noted, it is undisputed that City Furniture was entirely responsible for the collision, and is therefore responsible to compensate Al Jason for damages that resulted from

the collision. So, the question is what damages, if any, Al Jason is entitled to for their vehicle damage.

### ***Vehicle damage***

13. In their notice of application, Al Jason claims \$2,048.33 in damages for the gross amount to fix the bumper dent plus “about \$300” to replace the back-up camera, but their total claim amount was only \$2,048.33. Given the claim description, I find this was likely an inadvertent error, and Al Jason likely claims \$2,348.33 in damages. Given that both the above amounts were included in the claim description, I find the respondents had notice of Al Jason’s entire damages claim. I note the respondents also addressed the back-up camera claim in submissions. Given the above, I find there is no actual prejudice to the respondents in considering Al Jason’s claims for the both the bumper dent repair costs and the back-up camera costs.
14. On June 4, 2021, ICBC sent a letter to Al Jason advising that the responsibility portion of the collision was resolved. ICBC said it would pay for Al Jason’s vehicle repairs based on the “approved repair sheet”. ICBC also said it would waive 100% of the deductible, and instructed Al Jason to take the letter to the repair facility so they could waive it. The approved repair sheet is not in evidence.
15. Al Jason took their vehicle to a repair shop to obtain a quote, and it was submitted to ICBC, but then ICBC refused to approve it. ICBC says Al Jason does not have a claim for damages for the bumper damage because the bumper required replacement before the collision.
16. ICBC provided 2 photographs of Al Jason’s vehicle. The first photo shows scratches on the left side of the rear bumper. It is undisputed that this damage resulted from the collision. The first photo also shows a decal covering the right side of the rear bumper. The second photo shows the decal peeled back. Under the decal, there is more damage. The damage consists of what appears to be a large cut through the bumper. It is undisputed that this damage did not result from the collision.

17. The respondents say the repair shop informed ICBC that there was unrelated damage to the right side of the bumper, and the bumper needed to be replaced. There is no evidence directly from the repair shop. However, ICBC provided its notes, which indicate the repair shop provided a photo of the rear bumper cut, and advised that due to the cut, the bumper needed to be replaced and painted prior to the collision.
18. It is undisputed that Al Jason told ICBC about the unrelated damage, and ICBC knew about it when it said it would cover the cost of repairs. However, this does not mean the respondents are responsible to compensate Al Jason for damage repairs unrelated to the collision. I find the evidence shows the respondents did not know that the entire bumper required replacement as a result of the unrelated damage until Al Jason took their vehicle to the repair shop.
19. The respondents submitted an email from Jonathan Gough, a professional engineer at CEP Forensics. In the email, Jonathan Gough said, based on their review of hundreds of repair estimates, a full thickness cut through the bumper cover would require the cover to be replaced rather than repaired. They also said the photos show the back up camera damage was as result of the collision. They said the photos show a dent in the trunk lid that appeared to have been caused by the camera being pushed forward into contact with the trunk, and there was broken plastic on top of the bumper cover. Al Jason did not dispute this, or provide other evidence to contradict it. So, I accept Jonathan Gough's undisputed opinion about the bumper replacement and the back-up camera.
20. Given the above, I find the bumper likely required replacement before the collision due to unrelated damage. This means the left-side bumper scratches that were undisputedly caused by the collision did not result in Al Jason suffering any damages, because at the time of the collision, Al Jason's bumper already required replacement. I find Al Jason has not proved that the bumper replacement costs were a result of the collision. Therefore, I find Al Jason is not entitled to any damages for the bumper.
21. However, given Jonathan Gough's evidence, I find the back-up camera was likely damaged in the collision. As noted, the respondents say they will compensate Al

Jason for the back-up camera if receipts are submitted. Al Jason provided a screenshot of a November 22, 2021 order confirmation for a replacement back-up camera that totals \$303.44. Al Jason says this amount does not include installation, which would be around \$200. However, beyond this bare assertion, they provided no evidence to support this additional \$200, and it was not claimed in the Dispute Notice. So, I find it is not properly before me, and unproven in any event.

22. Turning to the back-up camera itself. The respondents say the order confirmation shows the backup camera was shipped to someone other than Al Jason. However, I find the fact the back-up camera was shipped to another person does not show that this expense was not incurred by Al Jason. Further, the order confirmation is the best evidence of the back-up camera's replacement cost. So, on balance, I find Al Jason has proved they are entitled to \$303.44 in damages for the replacement back-up camera.

### ***Interest, CRT fees and expenses***

23. The *Court Order Interest Act* applies to the CRT. Al Jason is reasonably entitled to pre-judgment interest on the \$303.44 damages award from November 21, 2021, the date of the back-up camera order confirmation, to the date of this decision. This equals \$20.78.

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. Al Jason was only partially successful. So, I find they are entitled to reimbursement of \$62.50 for half their paid CRT fees. Neither respondent paid any CRT fees and none of the parties claimed dispute-related expenses.

## **ORDERS**

25. Within 30 days of the date of this order, I order City Furniture to pay Al Jason a total of \$386.72, broken down as follows:

- a. \$303.44 in damages,

- b. \$20.78 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$62.50 in CRT fees.

26. Al Jason is entitled to post-judgment interest, as applicable.

27. I dismiss Al Jason's claims against ICBC.

28. 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 Volkers, Tribunal Member

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<sup>i</sup> The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure the CRT addresses them respectfully throughout the process, including in published decisions. Al Jason did not provide their pronouns or title. So, I will use gender neutral pronouns and their full name to refer to them throughout this decision, intending no disrespect.