



Civil Resolution Tribunal

Date Issued: March 13, 2024

File: SC-2023-000101

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cossette v. Canadian Appliance Source GP Ltd.*, 2024 BCCRT 256

B E T W E E N :

DAYLEN COSSETTE

APPLICANT

A N D :

CANADIAN APPLIANCE SOURCE GP LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This dispute is about fridge delivery.
2. In October 2022, Daylen Cossette bought a fridge from Canadian Appliance Source GP Ltd. (CAS). CAS agreed to deliver the fridge to Mr. Cossette on October 22, but

made an error when recording Mr. Cossette's phone number. As a result, the first delivery was unsuccessful. Mr. Cossette contacted CAS to correct the error and the parties set delivery for October 29. Unfortunately, CAS did not process the correction in time, and delivery was unsuccessful again. CAS corrected the phone number and delivered the fridge on November 3.

3. Mr. Cossette claims \$3,000 in damages, including \$700 for increased food and gas costs, \$800 for mental health decline, \$500 for negative impact on his career, and \$1,000 for lost work and annual leave.
4. CAS says it attempted to deliver the fridge on both October 22 and October 29, but no one was home. It also says Mr. Cossette should have noticed, and corrected, the error in his phone number prior to delivery. Finally, it says Mr. Cossette has not proved his damages. It asks me to dismiss Mr. Cossette's claims.
5. Mr. Cossette is self-represented. An employee represents CAS.
6. For the reasons that follow, I allow the applicant's claim to a limited extent.

JURISDICTION AND PROCEDURE

7. These are the Civil Resolution Tribunal (CRT)'s formal written reasons. The CRT has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 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.
8. CRTA section 39 says the CRT has discretion to decide the hearing's format, 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.

9. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.
10. Where permitted by CRTA section 118, 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.

ISSUE

11. The issues in this dispute are:
 - a. Did CAS have, and breach, a contract to deliver the fridge to Mr. Cossette on October 22, 2022?
 - b. If so, what should CAS pay Mr. Cossette in damages?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, Mr. Cossette, as applicant, must prove his claims on a balance of probabilities. 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.
13. As noted above, in mid-October 2022, Mr. Cossette purchased a fridge from CAS. The purchase agreement set delivery for October 22, 2022. Other than the fridge's make and model number, there are no other terms in the agreement.
14. CAS says it emailed Mr. Cossette prior to attempting delivery to confirm details, including contact information. Despite arguing Mr. Cossette should have double-checked information, CAS did not provide a copy of the email.
15. Mr. Cossette says in preparation for delivery, he sold his old fridge on October 21 and took his refrigerated food to a friend for storage.

16. On October 22, CAS says its delivery service attempted to deliver the fridge, but no one was home. Mr. Cossette disagrees, and says he was. CAS says the delivery service tried to call Mr. Cossette during the attempted delivery but was unsuccessful. The parties later found CAS had recorded one digit of Mr. Cossette's phone number incorrectly when taking his information for delivery.
17. That evening, Mr. Cossette says he emailed CAS about the failed delivery. He undisputedly went to the store on October 24. A representative at the store rescheduled delivery for October 29 and told Mr. Cossette they had corrected his phone number.
18. On October 29, CAS says its delivery service attempted to deliver the fridge again, but again, no one was home. It submitted a photograph I infer the delivery service took of Mr. Cossette's building, dated October 29, 2022. Undisputedly, the delivery service tried calling Mr. Cossette, but still had the incorrect number. As with the previous attempt, Mr. Cossette says he was home.
19. Again, Mr. Cossette contacted CAS about the failed delivery. CAS ensured it corrected the phone number, and rescheduled delivery for November 3. It was successful.

Contract

20. While the parties' agreement's terms are effectively limited to the date of delivery, I find a reasonable bystander would understand that CAS entered into a contract to deliver the fridge to Mr. Cossette on October 22. I also find that Mr. Cossette reasonably relied on the contract in choosing to sell his fridge and relocate his perishable food to a friend's house.
21. I accept CAS made a simple typo in recording Mr. Cossette's phone number. However, I find it still breached the parties' contract by not delivering the fridge on October 22. CAS does not explain why it could not reschedule delivery for sooner than October 29, or once that was unsuccessful, why it could not reschedule delivery for sooner than November 3.

22. Given that I have found CAS breached the parties' contract, Mr. Cossette is entitled to damages.

Damages

23. Damages for breach of contract are intended to place the innocent party in the same position they would be in if the contract had been completed.

24. As CAS argues, Mr. Cossette did not provide any evidence of his actual loss.

25. While he claims \$600 as his salary for 3 missed days of work, he did not provide any information about his wages or show that he was otherwise scheduled to work on one or all of the delivery dates. So, I find this aspect of his claim unproven and dismiss it.

26. Mr. Cossette claims the stress of not having a fridge impacted his mental and physical health, requiring him to take leave for 3 consecutive days after the first failed delivery. He claims \$400 in damages for being forced to stay home instead of adding those days to other vacation, during which he says he could have travelled.

27. However, Mr. Cossette's own evidence shows his supervisor approved his October 24 leave on September 23. This proves it was unrelated to the failed delivery on October 22. For October 25 and 26, Mr. Cossette provided no medical evidence to support his assertion he needed to take that time off to address his mental health. So, I find this aspect of his claim unproven and dismiss it.

28. Mr. Cossette claims \$500 for negative impact on his career but does not explain how he determined this amount. Similarly, he claims \$800 for mental health decline, depression, weight loss, and inconvenience. His evidence is his own statement that he needed to eat "junk food" and, as a result, felt sick, and could not work out. I find this evidence is vague, unconvincing, and insufficient to support his claim. So, I find these aspects of his claim unproven and dismiss them.

29. Finally, Mr. Cossette claims \$700 for increased food and gas costs as a result of being unable to store food in a fridge. While he provided no documentary evidence, like receipts, to establish any increased costs, I accept that he would need to pay

something more than if he were able to grocery shop normally. On a judgment basis, I award him \$100 for additional food and gas costs over the period he was without a fridge.

30. The *Court Order Interest Act* applies to the CRT. Mr. Cossette is entitled to pre-judgment interest on the damages award from November 3, 2022, the date he received his fridge, to the date of this decision. This equals \$6.02.

31. Under CRTA section 49 and the 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. Here, Mr. Cossette was substantially unsuccessful, so I dismiss his claim for \$125 in CRT fees. CAS did not pay any CRT fees or claim any dispute-related expenses.

ORDERS

32. Within 28 days of the date of this order, I order CAS to pay Mr. Cossette a total of \$106.02, broken down as follows:

- a. \$100 in damages for breach of contract, and
- b. \$6.02 in pre-judgment interest under the *Court Order Interest Act*.

33. Mr. Cossette is entitled to post-judgment interest, as applicable.

34. I dismiss Mr. Cossette's remaining claims.

35. This is a validated decision and order. Under CRTA section 58.1, 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.

Christopher C. Rivers, Tribunal Member