



Civil Resolution Tribunal

Date Issued: March 28, 2024

File: SC-2022-010238

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Glen v. ICBC*, 2024 BCCRT 319

BETWEEN:

ALLAN GLEN

APPLICANT

AND:

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr, Vice Chair

INTRODUCTION

1. Allan Glen was in two car accidents on August 24, 2021. He says both were the result of a road rage incident. Mr. Glen's insurer, the Insurance Corporation of British Columbia (ICBC), determined that Mr. Glen was 50% responsible for the second accident. Mr. Glen says he was not responsible at all. He claims \$250, which is the partial deductible he paid to have his vehicle repaired. Mr. Glen is self-represented.

2. ICBC says that the third party gave a very different account of what happened, and it concluded they both played a role in the accident. So, it says it correctly held each driver 50% responsible. ICBC asks me to dismiss Mr. Glen's claim. An ICBC adjuster represents ICBC.

JURISDICTION AND PROCEDURE

3. 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 says 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.
4. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both parties of this dispute question the credibility, or truthfulness, of witnesses. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I am properly able to assess and weigh the evidence and submissions before me and make the necessary credibility findings. There is no other compelling reason for an oral hearing, especially considering the CRT's mandate to provide proportional and speedy dispute resolution. I therefore decided to hear this dispute through written submissions.
5. CRTA section 42 says the CRT may accept as evidence any information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.
6. I note that ICBC argues that it acted "properly and reasonably" in assigning fault. This language reflects the legal test for accident responsibility claims under CRTA section 133(1)(d). However, this is a small claims dispute based on a breach of contract because ICBC has a contractual obligation to indemnify Mr. Young based on a correct

liability determination.¹ So, this dispute comes in a different legal context than accident responsibility claims, and a different test applies. So, I have not placed any weight on ICBC's initial decision.

ISSUES

7. The issues in this dispute are:
 - a. Who is responsible for the accident?
 - b. If Mr. Glen was than 50% responsible, is he entitled to a full or partial refund of his deductible?

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, Mr. Glen as the applicant must prove his claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision. Mr. Glen did not provide final reply submissions despite having the opportunity to do so.
9. Before turning to the evidence, I will address ICBC's submission that this dispute is only about the second accident. ICBC says it never had to determine liability for the first, which is a separate insurance claim, because Mr. Glen never repaired any damage from it. So, there was no need for ICBC to determine liability. Mr. Glen makes submissions about who was responsible for the first accident. However, he does not say he repaired any damage from that accident or that ICBC found him partially responsible for it. I find that Mr. Glen has not proven that he paid a deductible for damage from the first accident or that ICBC made a liability decision about it. So, I have considered the evidence about the first accident for context, but do not need to decide what happened. With that, I turn to the evidence.

¹ *Carriere v. ICBC*, 2023 BCCRT 963 at paragraphs 12 to 14.

10. Mr. Glen gives the following account of the accidents. He was parked in a vacant parking lot on 184th Street in Surrey when the third party drove into the lot and rammed his vehicle. He was engaging in a “peaceful protest” at the time, which involved posting notices about the third party’s companion in different locations. The third party arrived and “rammed” his car on the bumper. The third party and their companion then got out of their car and approached Mr. Glen’s car, threatening him with a hockey stick. Mr. Glen managed to drive away, eventually ending up driving east on 76th Avenue. The third party followed him. During this drive, Mr. Glen’s passenger called police. Mr. Glen went around a roundabout at the end of 76th Avenue. He went all the way around a roundabout so that he was facing west on 76th Avenue. At this point, the third party was driving east towards him. The third party crossed into Mr. Glen’s lane. Mr. Glen swerved to avoid them, jumping the curb in the process. The third party hit Mr. Glen’s vehicle in the rear bumper area. Mr. Glen kept driving, eventually meeting police in a grocery store parking lot.
11. Mr. Glen’s passenger gave a statement to ICBC on November 17, 2021, that is consistent with Mr. Glen’s account. That statement does not add any relevant detail. Also, I place little weight on their statement because Mr. Glen’s passenger was involved in a heated and ongoing disagreement with the third party or their passenger.
12. The third party gave the following statement to ICBC on August 24, 2021. They parked in front of Mr. Glen in the vacant lot to confront him about posting “defamatory signs” around Surrey. Mr. Glen then “used his car as a weapon” and drove past the third party, leaving the lot. The third party followed Mr. Glen while their passenger called police. On 76th Avenue, Mr. Glen did a U-turn after 194th Street and started travelling west towards the third party. The third party thought Mr. Glen might hit them because he was swerving. The parties collided.
13. There is no dashcam or other video footage of the accidents. There are also no independent witnesses.
14. ICBC provided a redacted police report. The nature of the redactions make it difficult to understand. There were two officers involved, one speaking to the passenger in

each vehicle while events unfolded. To the extent the report says what happened, it just relays what the two sides told the police. Neither officer involved saw anything firsthand. The police ultimately did not consider charging either driver because they “equally participated in the incident”. I find that the police report does not help determine what happened during the second accident.

15. Mr. Glen makes several arguments about why I should accept his account as accurate.
16. First, he argues that the angle of impact is not consistent with the third party’s account. The third party’s front driver’s side bumper collided with Mr. Glen’s rear driver’s side, just behind the rear wheel. There are photos of the damage to each vehicle confirming this. He says he would have had to swerve drastically into and then out of the third party’s lane to expose his rear driver’s side. He says this is inherently implausible. I do not agree, given the parties each accuse the other of road rage, which is consistent with serving into an oncoming lane before swerving back. It is also consistent with the third party’s account that Mr. Glen swerved into their lane.
17. Next, Mr. Glen relies on the third party’s statement that he had done a U-turn. Mr. Glen says this could not have happened, because there was not enough room to do a U-turn before the roundabout and then get up to a high enough speed to lose control and swerve. However, the third party did not say Mr. Glen was going so fast that he lost control and swerved. The third party did not say anything about Mr. Glen’s speed before the accident. They simply said Mr. Glen was swerving and the third party was worried Mr. Glen would run into their car. Based on the map in evidence, I find there was enough room for Mr. Glen to do a U-turn before the roundabout. Also, the accident was at night, and it is possible that the third party saw Mr. Glen go around the roundabout and thought it was a U-turn.
18. Finally, Mr. Glen generally argues that the third party’s decision to follow Mr. Glen is aggressive, which makes his account of what happened more credible. I agree that the third party acted aggressively by following Mr. Glen after the first accident. However, I do not consider Mr. Glen innocent. Posting inflammatory signs about

someone is also aggressive and confrontational conduct, whether the signs were true or not. In short, I am not convinced that the third party's conduct was any worse or more inherently aggressive than Mr. Glen's.

19. ICBC argues that there is no evidence to prove who crossed the center line. I agree. I acknowledge the possibility that Mr. Glen is telling the truth and was the victim of a road rage incident. However, as noted above, as the applicant in a civil legal proceeding he must prove it happened as he says. I find there is insufficient objective evidence for me to draw that conclusion. For that reason, I dismiss Mr. Glen's claim.
20. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Mr. Glen was unsuccessful, so I dismiss his claim for CRT fees. ICBC did not claim any dispute-related expenses or pay any CRT fees.

ORDER

21. I dismiss Mr. Glen's claims, and this dispute.

Eric Regehr, Vice Chair