



Civil Resolution Tribunal

Date Issued: March 28, 2024

File: SC-2023-002189

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Durrani v. Best Buy Canada Ltd./Magasins Best Buy Ltee*, 2024 BCCRT
323

B E T W E E N :

CHANGIZ DURRANI

APPLICANT

A N D :

BEST BUY CANADA LTD. / MAGASINS BEST BUY LTEE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. The applicant, Changiz Durrani,¹ bought an LG television (LG TV) from the respondent, Best Buy Canada Ltd. / Magasins Best Buy Ltee. (Best Buy).

¹ 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

2. The applicant says the LG TV “slipped from the TV legs”, which damaged the screen. The applicant says Best Buy replaced the LG television with a Samsung television (Samsung TV). The applicant says the Samsung TV also slipped from its legs, which again damaged the screen. The applicant says they purchased Best Buy’s extended warranty for both the Samsung TV and the LG TV, but Best Buy denied their claim when the Samsung TV was damaged.
3. The applicant claims \$713 in damages, for the cost of the TV and the extended warranty.
4. Best Buy admits the applicant bought its “Protection and Replacement Plan” (Plan) for both TVs. Best Buy says it replaced the LG TV as a “gesture of good faith”, without a Plan claim. However, Best Buy says it justifiably denied the applicant’s Plan claim for damage to the Samsung TV because physical damage is not covered under the Plan. Best Buy also says the damage was caused by the applicant’s negligence, such as incorrect assembly or mounting.
5. The applicant is self-represented in this dispute. Best Buy is represented by its in-house lawyer, James Jeffries-Chung.
6. For the reasons set out below, I dismiss the applicant’s claims.

JURISDICTION AND PROCEDURE

7. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). 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.

that the CRT addresses them respectfully. Changiz Durrani indicated their pronouns are “they/them” so that is what I have used in this decision.

8. 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. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
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.

ISSUE

10. Is the applicant entitled to reimbursement of \$713 for the TV and Plan?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities. I have read the parties' submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.
12. The applicant says that both TVs "slipped from their legs" because the legs were faulty. Specifically, the applicant says the TVs were too heavy for the legs, so the legs could not hold the weight. The applicant says they are entitled to compensation under both the Plan, and section 18(a) of the *Sale of Goods Act* (SGA). I first address the SGA.

Sale of Goods Act

13. SGA section 18(a) says there is an implied warranty in every sale of goods contract that the goods sold will be reasonably fit for a particular purpose where (1) that purpose is made known to the seller, (2) the buyer relies on the seller's skill or judgment, and (3) the seller's business is to supply those goods.

14. I find SGA section 18(a) applies to the TV sale, since Best Buy is in the business of selling TVs. However, I find the applicant has not proved that the TVs were not reasonably fit for normal use.
15. The applicant provided photos showing the Samsung TV with a broken screen. They also provided 2 photos showing the TV's detached legs. However, I cannot tell from the photos what caused the screen to break. The legs do not appear damaged, although they are detached. Although the applicant says they were too weak to hold the TV's weight, there is nothing in the photos that proves this, such as broken or bent pieces, or signs of physical strain on the legs.
16. Best Buy says the applicant bought TV wall-mounting hardware when they picked up the Samsung TV, and provided an invoice showing the purchase. The applicant does not deny buying wall-mount hardware. The applicant provided no evidence that the TV sat on its legs for any portion of the 20 months they owned the Samsung TV, rather than being wall mounted.
17. The applicant also provided no expert evidence to prove why the TV broke, or to support their assertion that the TV's legs were faulty.
18. For these reasons, I find the applicant has not proved that the TV was not reasonably fit for purpose, as required under SGA section 18(a).

Plan Coverage

19. Best Buy provided a copy of the Plan's terms. Page 2 of the Plan includes the heading "General Exclusions", which states in paragraph 1 that accidental or intentional physical damage, except damage incurred by authorized shipment, is not covered under the Plan. Paragraph 1 also says repair or replacement necessitated by any causes other than normal usage and operation of the product is not covered.
20. I find that based on these terms, the Samsung TV's broken screen is not covered under the Plan. The fact that Best Buy chose to replace the LG TV, which had a broken screen, does not change the Plan's terms.

21. The applicant does not dispute the interpretation of these terms. However, the applicant says when they bought the LG TV and initial Plan, Best Buy's sales representative misrepresented the terms of the Plan. The applicant says the sales representative told them that any damage is covered, which includes physical damage. The applicant says they would not have bought the Plan if it did not include physical damage.
22. Best Buy's evidence shows that the applicant signed a document stating, "I agree that I have read and am bound by the [Plan's] Terms and Conditions." The applicant does not deny signing this document.
23. A misrepresentation is a false statement of fact made during negotiations or in an advertisement. A "fraudulent misrepresentation" occurs when the seller makes a false statement of fact that the seller knew was false, or was reckless about whether it was true or false, and the misrepresentation induced the purchaser into buying the item. A "negligent misrepresentation" occurs when the seller carelessly or negligently makes a representation that is untrue, inaccurate, or misleading, and the purchaser reasonably relied on the misrepresentation.
24. I find the applicant has not proved either negligent or fraudulent misrepresentation. Other than the applicant's own submission, there is no evidence before me, such as a witness statement, to confirm what the sales representative said. I find the applicant's evidence on this point unpersuasive, since it is self-serving.
25. The applicant also cites the legal principle *non est factum*. *Non est factum* is an exception to the general rule that an individual signing a written agreement is presumed to know its contents. To succeed with *non est factum*, the applicant must show that the document signed is fundamentally different from what they believed they were signing. See *Loychuk v. Cougar Mountain Adventures Ltd.*, 2011 BCSC 193 at paragraphs 27 to 28.
26. I find that *non est factum* does not apply, since there is no evidence, other than the applicant's own statement, to establish that Best Buy or its sales representative

misrepresented the Plan's terms. So, I find the Plan was not fundamentally different from what was presented to the applicant at the time they signed to agree to the Plan.

27. The applicant also says the Plan's term excluding all physical damage is a "hidden term." I do not agree, as it is written along with the Plan's other terms. Even if the applicant did not read it, or notice it, I find the applicant agreed to it by signing the document stating their agreement. In other words, I find that by signing the document, the applicant agreed to the Plan's terms, as written.
28. For these reasons, I find the applicant is not entitled to compensation for the TV or the cost of the Plan, either under the SGA or under the Plan. I dismiss the applicant's claims.
29. 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. Best Buy is the successful party. It paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

ORDER

30. I dismiss the applicant's claims and this dispute.

Kate Campbell, Tribunal Member