



# Civil Resolution Tribunal

Date Issued: April 5, 2024

File: SC-2023-004210

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Smith v. Woods*, 2024 BCCRT 334

BETWEEN:

DOUGLAS GEORGE SMITH

**APPLICANT**

AND:

LEVI WOODS

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell

## INTRODUCTION

1. This dispute is about a 1954 Chevrolet car grille.
2. The applicant, Douglas George Smith, says he left the grille with BW. BW is the respondent Levi Woods' deceased father. Mr. Smith says that at BW's celebration of life, he told Mr. Woods that the grille was his, and he wanted it back. Mr. Smith says

Mr. Woods later said he sold it. Mr. Smith requests an order that Mr. Woods return the grill, or alternatively pay \$2,000.

3. Mr. Woods says BW owned the grille, and had done so for over 20 years. Mr. Woods says that as executor of BW's estate, he sold the grille along with BW's other collected car parts. Mr. Woods says he sold the grille for \$100, which he believes was its fair market value.
4. The parties are each self-represented.
5. For the reasons set out below, I dismiss Mr. Smith's claim.

## **JURISDICTION AND PROCEDURE**

6. 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.
7. 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.
8. 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.

## **ISSUES**

9. The issues in this dispute are:
  - a. Does Mr. Smith own the grille?

- b. If so, what remedy is appropriate?

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, Mr. Smith, as the applicant, must prove his 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.
11. Mr. Smith says that at an unspecified time after 1986, his sister gave him the grille. Mr. Smith says he had no place to put it, so BW agreed to hang it on BW's shop wall, where their car club met.
12. Mr. Smith says that at BW's celebration of life, he pointed the grille out to Mr. Woods, and said he wanted it back. Mr. Smith says he later called Mr. Woods and learned that Mr. Woods sold the grille.
13. A copy of BW's will in evidence confirms that Mr. Woods was the executor of BW's estate.

### ***Applicable Law***

14. Although he does not use this term, I find Mr. Smith alleges that Mr. Woods committed the tort of conversion (wrongful interference with another person's property). In order to prove conversion, Mr. Smith must prove 3 things:
  - a. Mr. Woods committed a wrongful act involving the grille, inconsistent with Mr. Smith's rights to it,
  - b. The wrongful act must involve handling, disposing or destroying the property, and
  - c. The wrongful act had the effect or intention of interfering with or denying Mr. Smith's right or title to the grille.

15. This legal test is set out in the BC Supreme Court (BCSC) decision *Li v. Li*, 2017 BCSC 1312, in paragraphs 213-214.
16. The BCSC has also said that if an applicant has abandoned the disputed property, the respondent is not liable for the tort of conversion. See *Bangle v. Lafreniere*, 2012 BCSC 256. As set out in *Bangle*, if Mr. Smith abandoned the grille, Mr. Woods' act of selling it as executor of BW's estate of it is not conversion because Mr. Woods was not interfering with Mr. Smith's right of possession. In other words, if Mr. Smith abandoned the grille, Mr. Woods was free to sell it.
17. I turn back to the relevant chronology and evidence of abandonment. In using the word "abandonment", I do not need to find that Mr. Smith did not care about or value the grille. Abandonment is a legal term that may apply to Mr. Smith's decision to leave the grille in BW's possession for a prolonged period.
18. I accept Mr. Smith's evidence that he got the grille from his sister, and shortly after that BW hung it on his shop wall, where it remained for many years. This account of events is confirmed by various witness statements in evidence. However, Mr. Smith and the other witness statements he provided do not say exactly when this occurred. Mr. Smith only says it was sometime after 1986. Mr. Woods says it hung in the shop (which he describes as a barn) for over 20 years. This is confirmed by the statement of JT, a contractor who worked with BW for 13 years, including doing work storing and restoring many vehicles.
19. Based on all this evidence, I find the grille hung on BW's shop wall for over 20 years.
20. In *Bangle*, the applicant was found to have abandoned the contested property for about 2 years. Here, it is over 20 years. There is no evidence before me that Mr. Smith ever took steps to confirm his ownership of the grille during that time, such as by taking it back, or asking BW to sign an agreement stating that the grille would be returned to Mr. Smith.

21. I also note there is no evidence before me showing that when BW hung the grille, BW agreed he would eventually return it. Mr. Smith does not say there was such an agreement.
22. Mr. Smith says he and BW joked that BW was taking good care of the grille, but I find this is uncorroborated by a statement from any witness, and in any event does not confirm ownership.
23. Based on the evidence before me, I find that Mr. Smith abandoned the grille.
24. Even if I had concluded that Mr. Smith owned the grille, I would not have ordered the grille's return. Since the parties agree it is sold, there is no practical way to get it back.
25. I would also not have ordered Mr. Woods to pay the claimed \$2,000 because I find the grille's value is unproven. Mr. Woods provided copies of 2 eBay listings showing 1954 grilles for sale for \$1,600 US dollars, and \$1,475 US dollars. However, one is listed as "re-chromed" and the other is listed as in "new" condition. There is no evidence before me to establish that the disputed grille was in a similar condition. Also, there is no evidence about whether the eBay-listed grilles actually sold for asking price. Just because an item is listed on an auction site for a particular price does not mean that is the item's fair market value.
26. For all these reasons, I dismiss Mr. Smith's claim.
27. 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. As Mr. Smith was unsuccessful, I dismiss his claim for reimbursement of CRT fees. Mr. Woods is the successful party. He paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

## **ORDER**

28. I dismiss Mr. Smith's claim and this dispute.

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Kate Campbell, Tribunal Member