



# Civil Resolution Tribunal

Date Issued: April 18, 2024

File: SC-2023-003730

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *AF (Litigation Guardian of) v. Cretu*, 2024 BCCRT 373

**B E T W E E N :**

DF as Litigation Guardian of AF

**APPLICANT**

**A N D :**

FELIX CRETU

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Kate Campbell

### **INTRODUCTION**

1. This dispute is about the purchase of a used car part.
2. AF was a minor when this dispute was filed, and is participating through his litigation guardian, DF. Because AF was a minor when the dispute was filed, I have

anonymized DF and AF's names in the published version of this decision, to protect AF's identity.

3. AF bought a head unit (car stereo controller) from Felix Cretu, through Facebook Marketplace. AF says Felix Cretu advertised the head unit as a Subaru iDoing model, but when he opened it, he discovered it was an inferior Junsun model. AF says Felix Cretu misrepresented the head unit, and requests a refund of the full \$400 purchase price.
4. Felix Cretu is self-represented in this dispute. Felix Cretu says the head unit works well and is as advertised. Felix Cretu says they are willing to take the head unit back for an unspecified reduced price, but not for the full \$400 purchase price.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. 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.
7. 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**

8. Is AF entitled to a \$400 refund for the head unit?

## EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, AF, 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.
10. In the sale of used goods, the general rule is "buyer beware". This means that a buyer who fails to have the goods inspected is subject to the risk that they did not get what they thought they were getting and made a bad bargain.
11. In *Mah Estate v. Lawrence*, 2023 BCSC 411, the court recently found that to be entitled to compensation, a buyer must prove fraud, negligent misrepresentation, breach of contract, breach of warranty, or known latent (hidden) defect. The applicant must show that "buyer beware" does not apply because at least one of those conditions exists.
12. As noted above, in this case AF says Felix Cretu misrepresented the head unit by saying it was iDoing brand, when actually it was Junsun brand.
13. Legally, a misrepresentation is a false statement of fact made during negotiations or in an advertisement that induces a reasonable person to enter into a contract. The seller must have acted negligently or fraudulently in making the misrepresentation, the buyer must have reasonably relied on the misrepresentation to enter into the contract, and the reliance "must have been detrimental in the sense that damages resulted". See *Queen v. Cognos Inc.*, [1993] 1 SCR 87 at paragraph 110.
14. I find AF has proved misrepresentation in this case. AF provided a copy of the Facebook Marketplace listing, which describes the head unit as a "Subaru iDoing head unit", brand new in box. The listing also includes a photo of a head unit, which appears to be screenshot from a website sales listing, under the caption "iDoing". Based on this listing, I find Felix Cretu market the head unit as iDoing brand.

15. AF says that when he picked up the head unit, it was in a sealed box so he did not inspect it. AF says when he opened it at home, he found the user manual, which identified it as a Junsun brand head unit. This is confirmed by photos in evidence.
16. Felix Cretu says the head unit AF bought is “perfectly fine” and works well. I accept that. However, as explained above, Felix Cretu specifically marketed it as an iDoing brand head unit, and AF’s photos show it is not. I note that Felix Cretu does not say in this dispute that the head unit is iDoing brand, only that it works and is “amazing.”
17. I also place some weight on the copies of sales listings AF provided, which show that a new iDoing head unit sells for \$671.17, while a new Junsun head unit sells for \$92.10.
18. For these reasons, I find that Felix Cretu misrepresented the head unit.
19. I also note that AF specifically confirmed the brand in his text messages to Felix Cretu. AF asked if it was an iDoing head unit, and Felix Cretu said yes. AF also texted that he was looking at reviews of that model. So, I find AF reasonably relied on the misrepresentation and bought the head unit because of it.
20. The principal remedy for a fraudulent misrepresentation is rescission, where the contract is set aside and the parties are restored to their original positions. See *O’Shaughnessy v. Sidhu*, 2016 BCPC 308. AF has offered to return the head unit, in exchange for a refund of the full purchase price. I find that is appropriate. So, I order AF to return the head unit, and I order Felix Cretu to refund the \$400 purchase price.
21. The *Court Order Interest Act* (COIA) applies to the CRT. I find AF is entitled to pre-judgment interest from March 28, 2022 (the sale date). This equals \$20.83.
22. As AF was successful in this dispute, under CRTA section 49 and the CRT’s rules I find he is entitled to reimbursement of \$125 in CRT fees. Neither party claimed dispute-related expenses, so I order none.

## ORDERS

23. I order that within 30 days of this decision, Felix Cretu must pay AF a total of \$545.83, broken down as follows:
- a. \$400 as a refund of the head unit's purchase price,
  - b. \$20.83 in pre-judgment interest under the COIA, and
  - c. \$125 in CRT fees.
24. AF is entitled to post-judgment interest under the COIA, as applicable.
25. I also order that within 30 days of this decision, AF must return the head unit to Felix Cretu. He can do this by delivery in person, or by mail to the address Felix Cretu used in this CRT dispute.
26. 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 BC Provincial Court. Once filed, a CRT order has the same force and effect as an order of the BC Provincial Court.

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Kate Campbell, Tribunal Member