



Civil Resolution Tribunal

Date Issued: May 6, 2024

File: SC-2023-002903

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Reinhold v. Bevilacqua*, 2024 BCCRT 428

B E T W E E N :

KARIN REINHOLD

APPLICANT

A N D :

GIOVANNI BEVILACQUA and KAITLIN MARIA RANKIN

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This dispute is about a used car purchase.
2. The applicant, Karin Reinhold, says she bought a 2009 Chevrolet Aveo (car) from respondent Kaitlin Maria Rankin, for \$4,000. The applicant says the respondent Giovanni Bevilacqua advertised the car for Kaitlin Maria Rankin, and helped her sell

it. The applicant says she bought the car believing that it had new brakes and was in good working condition. She says shortly afterward she discovered several problems, including smoking brakes, a leaking valve gasket, and a lit engine warning light. As remedy, the applicant claims \$2,759.84 in repair costs.

3. The respondents admit that Kaitlin Maria Rankin owned the car and sold it to the applicant for \$4,000, with Giovanni Bevilacqua's assistance. The respondents say they did not misrepresent the car's condition. They say the applicant knew there was an issue with the car's brakes before purchasing it, and that the parties negotiated the price down from the original \$4,250 asking price to reflect this.
4. The applicant is self-represented in this dispute. Giovanni Bevilacqua represents the respondents.
5. For the reasons set out below, I dismiss the applicant's claim.

JURISDICTION AND PROCEDURE

6. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
7. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required even where credibility is at issue. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
8. The CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.

ISSUE

9. Is the applicant entitled to reimbursement of \$2,759.84 for car repairs?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant must prove her 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. It is well-established law that the "buyer beware" principle applies to used car sales. This generally means that a buyer who fails to have the vehicle inspected is subject to the risk that they did not get what they thought they were getting and made a bad bargain.
12. In *Mah Estate v. Lawrence*, 2023 BCSC 411, the BC Supreme Court recently said 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. This reasoning is binding on the CRT.
13. In this case, the applicant says the respondents misrepresented the car's condition. Specifically, she says the advertisement said the car was in good working condition, with new brakes and no defects. The respondents deny this, and say they disclosed that the car had problems. The applicant did not provide a copy of the advertisement. So, I place no weight on this argument.
14. The applicant also says the respondents did not disclose defects with the car's brakes, and an engine warning light that came on when she was driving home after completing the vehicle transfer paperwork. The applicant says these were latent defects known to the respondents, and she would not have bought the car if she had known about these problems.
15. I find the brake problem was not a latent defect. I agree that the invoices in evidence show that the brakes needed repairs. However, the applicant had the option of having the car inspected by a mechanic before purchasing it, and did not do so.

16. I place significant weight on the fact that the applicant admits that during her pre-purchase test drive, the front right brake started smoking. Based on the smoking brake, I find the car's brake problems were a patent defect, meaning the problems were visible or easily discoverable during a pre-purchase mechanical inspection. A seller has no obligation to disclose patent defects. If the applicant had chosen to have the car professionally inspected before purchasing it, the full scope brake problems would have been identified.
17. Regarding the check engine light, there is no indication that the respondents knew the check engine light was on or about to come on before selling the car. Also, I find the light itself is not a defect, and there is no expert evidence such as a mechanic's report clearly explaining why the check engine light came on. The invoices in evidence show that the car needed various repairs. However, I find the applicant has not proved that these repairs needs could not have been discovered during a pre-purchase mechanical inspection.
18. Section 18(c) of the *Sale of Goods Act* (SGA) applies to private sales of used cars. It says a car must be durable for a reasonable period of normal use, and considering all the surrounding circumstances of the sale. In *Sugiyama v. Pilsen*, 2006 BCPC 265, the court applied the SGA section 18(c) warranty to a used car sale. The court noted that the seller of a used vehicle cannot guarantee the vehicle's future performance, and that a buyer must expect problems at some point. The court also found that the older the vehicle, the more likely it will break down.
19. In this case, the car was 13 years old at the time of purchase. I agree with the applicant that the car needed immediate repairs to be roadworthy, specifically brake repairs. However, a significant circumstance in the sale was that the brake was already smoking during the test drive. This should reasonably have led the applicant to question its roadworthiness, and either have it inspected or not purchase it.
20. The evidence shows that the applicant had other, non-brake repairs performed after buying the car. However, there is no evidence before me that these problems made

the car non-roadworthy. So, I find the applicant is not entitled to any refund under SGA section 18(c).

21. In summary, because the brake was already smoking during the test drive, and because the applicant did not have the car inspected before buying it, I find she is not entitled to reimbursement for repairs. I also find she has not proved that either respondent misrepresented the car's condition.
22. In the Dispute Notice, the applicant also said that after the purchase, she learned the car had been driven for 127,000 kilometers, not 100,000 as the respondents claimed. However, the applicant provided no evidence or arguments about the odometer issue. So, I find it is unproven.
23. 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 the applicant was unsuccessful, I dismiss her claim for reimbursement of CRT fees. The respondents paid no CRT fees and claim no dispute-related expenses, so I award no reimbursement.
24. I dismiss the applicant's claims and this dispute.

Kate Campbell, Vice Chair