



# Civil Resolution Tribunal

Date Issued: May 21, 2024

File: SC-2023-002427

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Goligher v. Huey Lightshop Inc.*, 2024 BCCRT 466

B E T W E E N :

JANEEN GOLIGHER

**APPLICANT**

A N D :

HUEY LIGHTSHOP INC.

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Alison Wake

## INTRODUCTION

1. Janeen Goligher ordered four light fixtures and bulbs from Huey Lightshop Inc. (Huey). Mrs. Goligher says Huey failed to deliver her order in a reasonable time, and that when Huey eventually did deliver it, it was stolen. Mrs. Goligher asks for \$1,228.63 as a refund of the light fixtures' purchase price, or an order that Huey replace the order at no cost.

2. Huey says that its delivery times are not guaranteed. It also says that it is not responsible for the order being stolen because Mrs. Goligher did not inform it that her address had changed. Huey denies Mrs. Goligher's request for a refund or a replacement order.
3. Mrs. Goligher represents herself. Huey is represented by an employee or owner.
4. For the following reasons, I dismiss Mrs. Goligher's claims.

## **JURISDICTION AND PROCEDURE**

5. 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). CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Considering the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to 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. The issue in this dispute is whether Huey must reimburse Mrs. Goligher \$1,228.63 for the light fixtures or replace her order.

## **EVIDENCE AND ANALYSIS**

9. As the applicant in this civil proceeding, Mrs. Goligher must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision. Mrs. Goligher did not provide final reply submissions, despite having the opportunity to do so.
10. The background facts are undisputed. On August 29, 2022, Mrs. Goligher ordered four Cherub light fixtures and four light bulbs from Huey's website. Huey shipped the order to Mrs. Goligher on January 8, 2023, and it was delivered on January 16, 2023.
11. On January 20, 2023, Mrs. Goligher emailed Huey and said that she had come back from vacation to find that her order had been stolen from her front porch. She also said the delivery address was unoccupied at the time because she had moved.
12. Mrs. Goligher and Huey exchanged further emails about the delivery. Mrs. Goligher asked for a replacement order, but the parties could not agree about who was responsible for the order's cost. Mrs. Goligher filed this dispute with the CRT on March 7, 2023.
13. Mrs. Goligher makes two arguments about why Huey should reimburse her or replace the order. First, she says Huey did not deliver the order in a reasonable time frame, which led to it being stolen. Mrs. Goligher says that Huey originally told her that the light fixtures had a 6-to-8-week lead time. Huey says that its products are handmade and that under its terms and conditions, its lead times are estimated, not guaranteed.
14. Huey provided a copy of its terms and conditions in evidence. The terms and conditions say, in part, that Huey's lead times are an estimate only and are subject to change.
15. Terms and conditions on a website can form part of a contract if the website's owner takes reasonable steps to bring them to a visitor's attention before the parties enter

into a contract.<sup>1</sup> Here, Huey provided no evidence about what steps it took, if any, to bring the terms and conditions to Mrs. Goligher's attention. For example, Huey did not say that customers are required to agree to the terms and conditions before placing an order. So, I cannot conclude that Mrs. Goligher was aware of the terms and conditions before making her purchase.

16. However, I find Mrs. Goligher accepted that Huey's original stated lead time was not guaranteed. In a November 3, 2022 email in evidence, Mrs. Goligher asked Huey for an update on her delivery date. A Huey employee, ED, responded, apologizing for the longer wait time and advising that Mrs. Goligher's order was scheduled to ship at the end of the month. Mrs. Goligher responded, "Thanks for your quick and helpful reply. Yes its well worth the wait and part of the magic when ordering from an innovative new local company." So, I find Mrs. Goligher was aware that the original lead time was not a guarantee and was subject to change.
17. Mrs. Goligher also relies on a December 7, 2022 email from ED, in response to her request for another update. ED advised that Huey was experiencing supply chain issues which resulted in significant production setbacks. ED said, "We want to guarantee your order will be shipped out before the end of the month. At the moment this is the best range I can offer with sureness!" Mrs. Goligher says that Huey did not meet this guarantee, because the order undisputedly did not ship until January 8, 2023.
18. I agree that Huey did not meet its promised shipment date at the end of December, 2022. However, I find Mrs. Goligher has not established that the order was stolen because of the late shipment. Mrs. Goligher provided Huey's shipping confirmation and delivery confirmation emails in evidence, so I find she was aware of when the order ultimately shipped and was delivered. I agree with Huey's submission that Mrs. Goligher could have informed it that she was moving before it shipped the order. Instead, the first time Mrs. Goligher informed Huey that she was no longer living at

---

<sup>1</sup> See *Century 21 Canada Limited Partnership v. Rogers Communications Inc.*, 2011 BCSC 1196, and *Kobelt Manufacturing Co. Ltd. v. Pacific Rim Engineered Products (1987) Ltd.*, 2011 BCSC 224.

the delivery address was in her January 20, 2023 email to Huey reporting that the order had been stolen.

19. Further, in a February 7, 2023 email to Huey, Mrs. Goligher confirmed that she had moved out of the delivery address on December 31, 2022. So, even if Huey had shipped her order on or before that date as promised, I find it unproven that the delivery address would have been occupied when the order was delivered. So, I find Mrs. Goligher has not established that Huey's late delivery caused the order to be stolen.
20. Mrs. Goligher's second argument is that Huey shipped the order without requiring a signature for delivery. As Mrs. Goligher undisputedly did not request that Huey ship the order with a signature requirement, I infer she argues that Huey was negligent in not doing so.
21. To succeed in a negligence claim, Mrs. Goligher must establish that Huey owed her a duty of care, that Huey breached the applicable standard of care, and that she suffered damages caused by Huey's breach.<sup>2</sup>
22. I accept that Huey owed Mrs. Goligher a duty to take reasonable care in shipping her order to her. However, I do not find that Huey breached this standard.
23. As noted, Mrs. Goligher did not request that Huey ship the order with a signature requirement for delivery. Huey says that Mrs. Goligher had the option to select a signature requirement at checkout, which Mrs. Goligher disputes. Neither party provided evidence of the shipping options that are available to Huey's customers at checkout. However, Huey's terms and conditions say that larger orders may be required to select a signature option for delivery as a security measure. Given this, I find it is likely that Mrs. Goligher could have selected a signature option when she placed her order. In any event, Huey says, and I accept, that Mrs. Goligher could have contacted it at any time before shipping to request a signature option or liability coverage, and she undisputedly did not do so.

---

<sup>2</sup> See *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.

24. As noted, Mrs. Goligher also did not inform Huey that she was moving away from the delivery address and would not be present to receive the order. While Mrs. Goligher described the delivery address as being in an “area of known theft”, there is no evidence that she communicated this to Huey at any time before Huey shipped the order. In the absence of a specific request from Mrs. Goligher, and without knowing that Mrs. Goligher would be absent or that the delivery address was in a theft-prone area, I find it was reasonable for Huey to ship the order without requiring a signature for delivery. So, I find Mrs. Goligher has not established that Huey breached a reasonable standard of care in shipping her order.
25. In summary, I find that Mrs. Goligher has not proven that Huey was negligent, or that its failure to ship her order in the promised timeframe caused her loss. So, I dismiss Mrs. Goligher’s claim for a refund or a replacement order.
26. 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 Mrs. Goligher was unsuccessful, I dismiss her claim for CRT fees. Neither party claimed dispute-related expenses.

## **ORDER**

27. I dismiss Mrs. Goligher’s claims and this dispute.

---

Alison Wake, Tribunal Member