



Civil Resolution Tribunal

Date Issued: May 27, 2024

File: SC-2023-003255

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jag's MJM Furniture Showcase Ltd. v. Healy*, 2024 BCCRT 479

BETWEEN:

JAG'S M.J.M. FURNITURE SHOWCASE LTD.

APPLICANT

AND:

PAYTON HEALY and JEAN CHIASSON

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. This dispute is about payment for furniture. The applicant, Jag's M.J.M. Furniture Showcase Ltd., sold a 5-piece bedroom set to the respondents, Payton Healy and Jean Chiasson. The respondents paid the \$3,405 purchase price with Mr. Chiasson's

American Express credit card (Amex). The respondents say they cancelled this order but a few days later purchased the exact same bedroom suite again. The applicant delivered the bedroom suite. Later, Mr. Chiasson initiated a “chargeback”, and Amex effectively refunded the \$3,405 from the applicant to Mr. Chiasson. The applicant says the respondents thus received the bedroom set for free. The applicant seeks \$3,405 for the bedroom set, \$500 for its time communicating with the respondents and Amex, and \$500 for mental stress it says Mr. Chiasson caused its employees. In total, the applicant seeks \$4,405.

2. The respondents say the applicant never delivered the first bedroom set, so they should not have to pay for it. They say they paid for the second bedroom set they actually received, so the claim should be dismissed.
3. The applicant is represented by an employee or principal. The respondents are each self-represented.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has authority over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA says the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
5. The CRT conducts most hearings in writing, but it has discretion to decide the format of the hearing, including by electronic communication tools. Here, the real disagreement is over whether or not the respondents paid, by credit card, for the furniture the respondent delivered. I find that I am properly able to determine that issue based on the documentary evidence and submissions before me. I find that an oral hearing would offer limited advantages over proceeding through written submissions. Bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute in writing.

6. Section 42 of the CRTA 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.
7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to pay money, return personal property, or do things required by an agreement about personal property or services. The order may include any terms or conditions the CRT considers appropriate.

ISSUES

8. The issue in this dispute is whether the respondents paid for the bedroom set the applicant delivered, and if not, what remedies are appropriate.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove its 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.
10. On November 18, 2022, the respondents came to the applicant's furniture store and purchased a 5-piece bedroom set. The November 18, 2022 sales order is made out to Ms. Healy but also includes Mr. Chiasson's name and phone number. I infer that they lived together at the time, at the address on the sales order. The sales order shows that the applicant charged Mr. Chiasson's credit card the full \$3,405 purchase price that day.
11. The respondents say a few days later they changed their minds and "canceled the order." They do not say how cancelled the order, other than initiating the credit card chargeback. The respondents also say they later decided to follow through with the purchase. They say they returned to the applicant's store and reordered the identical bedroom set in a separate transaction. They say they paid for this second bedroom

set, and the applicant delivered it. The respondents do not provide any details about when they returned to the applicant's store or which employee they spoke with.

12. The applicant undisputedly delivered a 5-piece bedroom set to the respondents on December 1, 2022.
13. On January 9, 2023, Amex wrote to the applicant advising about the chargeback that Mr. Chiasson had initiated. Amex said it would process an adjustment for \$3,405 "less discount and taxes." From the related documentation, I find the adjustment was \$3,405 exactly. Amex said the applicant could dispute the adjustment by providing documentation by February 8, 2023.
14. On January 30, 2023, Amex wrote to the applicant acknowledging receipt of the applicant's documents. Inexplicably, Amex also stated that the applicant had not provided the documents by the specified deadline, so the adjustment would remain in place. I find that Amex's adjustment decision did not determine the merits of the underlying dispute and is not binding on me.
15. Mr. Chiasson acknowledges receiving the \$3,405 adjustment to his credit card balance. However, he says that the adjustment was for the first transaction, for a bedroom set that was never delivered. He says the second bedroom set was a separate transaction. In particular, he says he has "all the receipts and verification and proof from my American Express" of the payments he made.
16. If a party refers to evidence in favour of their position but fails to provide it without explanation, an adverse inference may be drawn. This means the CRT can assume that the evidence does not exist. The respondents say they have documentation to show that they paid for the bedroom set in a second transaction, but they do not provide either a receipt from the respondent or a credit card statement. As the respondents do not explain why they could not provide this documentation, I find it appropriate to draw an adverse inference here. That means I find there was no second bedroom set transaction. Since the respondents received a full refund for the first transaction, the respondents have not paid for the bedroom set they received.

17. The respondents argue that the applicant must provide two signed delivery forms proving it delivered two bedroom sets. I disagree. The applicant does not say it delivered two bedroom sets. It says it delivered one bedroom set, which is undisputed, but it did not get paid because the respondents successfully obtained a \$3,405 refund from Amex. On the evidence before me, that is precisely what happened here.
18. I therefore order the respondents to pay the applicant \$3,405 for the bedroom set. I find that joint and several liability is appropriate because both respondents' names were on the purchase order and neither says one should be liable over the other. This means that the applicant can recover the debt from either respondent.
19. As noted, the applicant makes two other claims. First, it wants \$500 for its accountant's and manager's time collecting documents and communicating with the respondents and Amex. While I accept that the applicant's employees likely spent some time attempting to collect on this debt, the applicant does not point to anything in its contract or any general legal principle that allows it to recover for such time spent as damages. Even if there were a legal basis, the applicant has not supported its claim with documentation of the time spent, such as employee statements or call logs or other records. I dismiss this aspect of the applicant's claim.
20. Second, the applicant wants \$500 for mental stress as a result of Mr. Chiasson's treatment of its employees. The applicant is a corporation. Because a corporation has no feelings, it cannot suffer an intangible injury like mental distress (see *Northwest Organics, Limited Partnership v. Fandrich*, 2019 BCCA 309, at paragraphs 126 to 128). I dismiss this aspect of the claim.
21. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$3,405 from November 18, 2022, to the date of this decision. This equals \$238.88.
22. Under section 49 of the CRTA and CRT rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. The

applicant was substantially successful, so I find it is entitled to reimbursement of \$175 in paid CRT fees. Neither party claims dispute-related expenses.

ORDERS

23. Within 21 days of the date of this order, I order the respondents, jointly and severally, to pay the applicant a total of \$3,818.88, broken down as follows:
 - a. \$3,405 in debt,
 - b. \$238.88 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175 in CRT fees.
24. The applicant is entitled to post-judgment interest, as applicable.
25. This is a validated decision and order. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Micah Carmody, Tribunal Member