



# Civil Resolution Tribunal

Date Issued: May 28, 2024

File: SC-2023-004264

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *SunFarm Products Ltd. V. Canadian Alliance Terminals Inc.*, 2024 BCCRT  
482

BETWEEN:

SUNFARM PRODUCTS LTD.

**APPLICANT**

AND:

CANADIAN ALLIANCE TERMINALS INC.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell, Vice Chair

## INTRODUCTION

1. This dispute is about alleged negligent storage.
2. The applicant, SunFarm Products Ltd. (SunFarm) says that since 2010, it has paid the respondent, Canadian Alliance Terminals Inc. (Canadian) to store liquor shipments. SunFarm says that on August 26, 2022, it had 16 cases of liquor (1 pallet)

sent to Canadian's warehouse. SunFarm says Canadian confirmed the pallet's delivery, and then a SunFarm employee picked up 3 of the 16 cases on August 29, 2022. SunFarm says that when it contacted Canadian in January 2023 to have the remaining 13 cases shipped, Canadian said the cases could not be found.

3. SunFarm requests \$3,871.78 in damages.
4. Canadian says it investigated and has no record of receiving the pallet. Canadian also says the signature on the proof of delivery form is not genuine. Finally, Canadian says that even if it is responsible, its liability is limited to \$866.67 based on its contract with SunFarm.
5. Both parties are represented by an employee or director.

## **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. These are the CRT's formal written reasons.
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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
8. CRTA section 42 says 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 SunFarm entitled to damages for lost liquor, and if so, how much?

## EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, SunFarm, as the applicant, must prove its 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. As explained above, SunFarm says Canadian received the pallet of liquor at its warehouse on August 26, 2022. Canadian says it has no record of receiving the pallet.

12. Based on the evidence before me, I find it more likely than not that Canadian received the pallet. In making this finding, I place significant weight on the following email correspondence between SunFarm and Canadian:

- August 17, 2022 – SunFarm to Canadian. One pallet will be arriving next week. Document attached listing products in shipment, identified as “inspection check sheet PO220518WG”.
- August 26 – Canadian to SunFarm. “Your PO220518WG is here. Please let me know if there is anything I can do for you.”
- August 26 – SunFarm to Canadian. “I will come on Monday to pick up some cases from this PO, but the pallet will stay in the warehouse.”

13. Canadian says it has no record of receiving the disputed shipment. However, Canadian does not explain why it sent the August 26 email confirming receipt of pallet number PO220518WG. I find that email strongly supports the conclusion that Canadian received the shipment, as SunFarm alleges.

14. Canadian's August 26, 2022, email confirming receipt of pallet PO220518WG is also consistent with the delivery receipt from shipping company Vitran. Vitran's delivery

receipt says that on August 26, 2022, at 9:19, it delivered a 421 pound SunFarm shipment to Canadian's warehouse.

15. The signature on Vitran's delivery receipt reads, "Gus." Canadian says it showed Gus the delivery receipt, and "he insists that he did not do that receiving, and the signature at the bottom does not belong to him."
16. Canadian did not explain who Gus is, and most importantly, did not provide a statement from him. Canadian's assertion about what Gus said is hearsay. Although hearsay is admissible as evidence in CRT proceedings, I find Canadian's submission about what Gus said is unpersuasive. It was open to Canadian to provide a statement from Gus, but it did not do so, or explain why Gus could not make a statement. So, I place no weight on Canadian's argument that the delivery receipt is somehow false. Instead, I find the delivery receipt supports the conclusion that Canadian received SunFarm's pallet on August 26, 2022.
17. SunFarm also provided a signed statement dated January 9, 2024 from MZ. MZ says:
  - He was SunFarm's logistics coordinator until June 2023.
  - He received Canadian's August 26, 2022, email confirming it received pallet PO220518WG.
  - On August 29, 2022, MZ visited Canadian's warehouse and took 3 boxes of samples from the pallet. MZ listed the specific products he took.
  - MZ left the remaining goods on the pallet in the warehouse.
  - On January 18, 2023, MZ contacted Canadian to schedule pickup of pallet PO220518WG. Canadian said it could not locate the pallet.
18. I find MZ's statement is consistent with the email in evidence setting up his planned visit to view the pallet, and with the delivery receipt. Canadian provided no evidence to contradict MZ's assertion that he saw the pallet in Canadian's warehouse on August 29, 2022, and removed 3 cases from it.

19. For these reasons, I find that Canadian received SunFarm's pallet at its warehouse on August 26, 2022.

### ***Damages***

20. SunFarm claims \$3,871.78 in damages for 13 lost cases of liquor. This amount includes the alleged value of the liquor, plus a refund of storage fees.

21. Canadian says that under the terms of its written contract with SunFarm, its liability is limited to \$866.67.

22. Section 8 of the contract addresses Canadian's liability for stored goods. Section 8(d)(II) says that Canadian's liability is strictly limited to:

...the lesser of the monetary amount of the damage incurred or 50 times the monthly storage rate on any one package or stored unit with the contents...unless the Depositor specifically requests a higher limit in writing and declares an excess value...

23. There is no suggestion that SunFarm requested a higher limit or declared an excess value. The service agreement signed December 7, 2021, states that SunFarm's storage rate at the time the dispute pallet was identified as missing was \$4.00 per pallet per week. This means the monthly storage rate was \$17.33 per month (\$4.00 x 52, divided by 12).

24. So, based on the terms of the contract, I find Canadian's liability is limited to 50 times \$17.33, which equals \$866.50.

25. SunFarm also requests reimbursement of \$1,053.56 in storage fees. I agree that Canadian did not reasonably store the disputed pallet. However, from the evidence before me, I cannot tell what Canadian charged for storing that pallet, if anything. I also cannot tell what other goods, if any, Canadian stored for SunFarm during this period. So, I order no refund.

26. In conclusion, I find SunFarm is entitled to \$866.50 in damages for the lost pallet.

27. The *Court Order Interest Act* (COIA) applies to the CRT. I find SunFarm is entitled to pre-judgment interest from January 18, 2023 (the date that SunFarm tried to reclaim the pallet). This equals \$57.34.
28. 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. SunFarm was partially successful in this dispute, so under CRTA section 49 and the CRT's rules I find it is entitled to reimbursement of half its CRT fees, which equals \$62.50. Neither party claimed dispute-related expenses, so I order none.

## **ORDERS**

29. I order that within 30 days of this decision, Canadian must pay SunFarm a total of \$986.34, broken down as follows:
- \$866.50 in damages,
  - \$57.34 in pre-judgment interest under the COIA, and
  - \$62.50 in CRT fees.
30. I dismiss SunFarm's remaining claims.
31. SunFarm is entitled to post-judgment interest under the COIA, as applicable.
32. 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, Vice Chair