



Civil Resolution Tribunal

Date Issued: June 10, 2024

File: SC-2023-010295

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Avasarala v. Canadian Appliance Source Limited Partnership*, 2024
BCCRT 526

B E T W E E N :

SRINIVAS AVASARALA

APPLICANT

A N D :

CANADIAN APPLIANCE SOURCE LIMITED PARTNERSHIP

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This dispute is about a defective fridge.
2. The applicant, Srinivas Avasarala bought a new fridge from the respondent, Canadian Appliance Source Limited Partnership (Canadian). Mr. Avasarala says the fridge did

not work, and Canadian did not fix it. Mr. Avasarala claims \$931.33 for the cost of the fridge, \$300 for shipping costs, and \$1,000 in damages for stress and loss of use.

3. Canadian agrees it sold the fridge to Mr. Avasarala. However, Canadian says it is not responsible for the claimed amounts because it did not manufacture, deliver, or install the fridge, and because Mr. Avasarala refused a service visit.
4. Mr. Avasarala is self-represented in this dispute. Canadian is represented by an employee.
5. For the reasons set out below, I find in favour of Mr. Avasarala in this dispute, but order only part of his claimed damages.

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. 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.
9. Mr. Avasarala originally named the respondent as Canadian Appliance Source GP Ltd. However, both parties agree that the respondent's legal name is Canadian Appliance Source Limited Partnership. Since both parties intended to use the

respondent's correct legal name, I have used my authority in CRTA section 61 to amend the respondent's name to Canadian Appliance Source Limited Partnership.

ISSUES

10. The issues in this dispute are:

- a. Was the fridge defective?
- b. If so, what damages does Canada owe to Mr. Avasarala, if any?

BACKGROUND

11. In a civil proceeding like this one, Mr. Avasarala, 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.
12. The invoice shows that Mr. Avasarala bought a Frigidaire fridge from Canadian on September 2, 2023, for \$931.33. The parties agree that Mr. Avasarala arranged shipping himself, and did not use Canadian's delivery service. The fridge was picked up on September 13 and delivered to Mr. Avasarala's rental property, and not to his home.
13. On September 15, Mr. Avasarala's tenant texted him and said the fridge was not working after being plugged in for 12 hours. The text said the fridge was warm inside, and the ice tray was not frozen.
14. On September 16, Mr. Avasarala filed an online request to return the fridge. Canadian replied that defective items are subject to the manufacturer's warranty, and a technician must inspect the fridge to diagnose and fix the problem. Canadian said it had initiated a service call with Frigidaire, and if the fridge was "deemed irreparable", Frigidaire would authorize a replacement.

15. Emails in evidence show that although Mr. Avasarala followed up, and expressed that his tenants urgently needed a working fridge, there was no service call until September 29. This appears to be in part due to confusion about the tenant's address where the fridge was located. It appears that Frigidaire's technician went to the wrong address.
16. There is no evidence from Canadian or Frigidaire about what the technician discovered during the service call. According to Mr. Avasarala, the technician could not fix the issue on their first visit. Canadian does not dispute this. Canadian has not provided evidence about what happened during the service call, whether a follow up visit was scheduled, or whether parts were ordered.
17. Mr. Avasarala continued to email Canadian, requesting a refund. Canadian replied on October 4 and October 5, stating that it was waiting for Frigidaire's technician's report. On October 6, Mr. Avasarala replied that he would pursue legal action, and would no longer accept any technician's visit. Mr. Avasarala filed this CRT dispute on October 8, 2023.

REASONS AND ANALYSIS

18. Canadian argues, in part, that it is not liable for Mr. Avasarala's claims because he refused a service call, which is a required condition of its Return/Exchange Policy. I do not accept this argument, because the parties agree there was a service call around September 29. There is no indication that a second service call was recommended, initiated, scheduled, or would ever have occurred. So, I find Mr. Avasarala did not refuse a service call.
19. Rather, on November 7, 2023, Frigidaire sent a form to Canadian stating that it had authorized "scrap and exchange" for Mr. Avasarala's fridge, due to "service delay". This supports my conclusion there would never have been any second service call.

20. The November 7 form includes instructions about how to return the fridge for an exchange. However, there is no evidence that Canadian or Frigidaire ever provided this form to Mr. Avasarala, or informed him that he was entitled to an exchange.
21. Since Frigidaire's technician viewed the fridge around September 29, and on November 7 Frigidaire made a written offer to exchange the fridge, I accept that the fridge did not work.
22. Canadian says it is not responsible for whether the fridge works, and that Mr. Avasarala's only claim is against Frigidaire as the manufacturer. However, since Canadian is in the business of selling fridges, it is subject to section 18 of the *Sale of Goods Act* (SGA). SGA section 18 sets out implied warranties that goods sold are of saleable quality, fit for their purpose, and reasonably durable in all the surrounding circumstances. Since the fridge did not work, I find Canadian as the seller is responsible for the implied warranties in SGA section 18.

Damages

23. For the reasons set out above, I find Mr. Avasarala is entitled to a refund of the fridge's \$931.33 purchase price.
24. Mr. Avasarala also claims \$300 for shipping costs, and \$1,000 in damages for stress and loss of use.
25. I dismiss the claim for shipping costs, as Mr. Avasarala did not provide evidence such as a receipt or invoice showing what, if anything, he paid to ship the fridge.
26. I also dismiss Mr. Avasarala's claim for damages for stress and loss of use. In his own submission, he admits that it was his tenants, and not him, who had damaged food, and were unable to properly store food. There is no evidence that Mr. Avasarala compensated the tenants for this.
27. Based on the evidence, I accept that Mr. Avasarala was frustrated by the defective fridge, and by Canadian's and Frigidaire's responses. However, I find that this inconvenience does not rise to a level justifying damages.

28. The *Court Order Interest Act* (COIA) applies to the CRT. I find Mr. Avasarala is entitled to pre-judgment interest from September 2, 2023 (the date of the fridge's purchase). This equals \$36.78.
29. As Mr. Avasarala 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

30. I order that within 30 days of this decision, Canadian must pay Mr. Avasarala a total of \$1,093.11, broken down as follows:
- a. \$931.33 as a refund,
 - b. \$36.78 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
31. Mr. Avasarala 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.

ORDER

33. I dismiss Mr. Avasarala's claims.

Kate Campbell, Vice Chair