



# Civil Resolution Tribunal

Date Issued: June 10, 2024

File: SC-2023-003011

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Simpson v. Milos Greek Taverna Ltd.*, 2024 BCCRT 521

B E T W E E N :

JESSICA SIMPSON

**APPLICANT**

A N D :

MILOS GREEK TAVERNA LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr, Vice Chair

## INTRODUCTION

1. On March 18, 2023, Jessica Simpson went to a Greek restaurant, Milos Greek Taverna Ltd. Ms. Simpson says that she had “extremely low blood sugar and required food as soon as possible”. She says Milos’s employee did not give her food, and she got sick as a result. She asks for \$5,000 in compensation. She represents herself.

2. Milos denies doing anything wrong and asks me to dismiss Ms. Simpson's claim. Milos is represented by a person I infer is a director.

## **JURISDICTION AND PROCEDURE**

3. 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). Section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
4. 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. In some respects, both sides to this dispute question the credibility, or truthfulness, of the other. However, in the circumstances of this dispute, it is not necessary for me to resolve the credibility issues that the parties raised. There is no other compelling reason for an oral hearing, especially considering the CRT's mandate to provide proportional and speedy dispute resolution. I therefore decided to hear this dispute through written submissions.

## **ISSUES**

5. The issues in this dispute are whether the CRT has jurisdiction over Ms. Simpson's claims, and if it does, whether Ms. Simpson is entitled to compensation.

## **EVIDENCE AND ANALYSIS**

6. In a civil claim such as this, Ms. Simpson as the applicant must prove her claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
7. The basic facts are undisputed. Ms. Simpson walked into Milos on March 18, 2023, in the early afternoon with her dog. She says the dog is a service dog. A Milos

employee asked to see the dog's certification, and Ms. Simpson declined. Ms. Simpson left. Ms. Simpson says she suffered harm as a result because she is diabetic and her blood sugar was low.

8. The parties disagree about the details of exactly what happened, such as whether Milos refused service. I find it unnecessary to address the parties' accounts based on my conclusion below.
9. Ms. Simpson argues several legal bases for her claim. The first is that Milos breached the *Human Rights Code* (Code). This is a confusing submission because in her Dispute Notice, she explicitly said she was not making a claim under the Code. Given that clear initial statement, there is a procedural fairness problem with Ms. Simpson relying on the Code in her submissions. However, I do not need to address the procedural fairness issue. CRTA section 11(1) allows me to refuse to resolve a claim that involves the application of the Code. I find this is appropriate here because the Human Rights Tribunal is a more appropriate forum for a claim for compensation for injury to dignity. So, I refuse to resolve Ms. Simpson's human rights claim. For this reason, I will not address Ms. Simpson's evidence or submissions about whether her dog is a service dog, which I find relate solely to her arguments about the Code.
10. Ms. Simpson also relies on the *Charter of Rights and Freedoms*. Under CRTA section 113, the CRT has no jurisdiction over constitutional questions. CRTA section 10 says I must refuse to resolve a claim outside the CRT's jurisdiction. So, I refuse to resolve Ms. Simpson's claim about the *Charter*.
11. Finally, she argues the law of negligence. To prove negligence, Ms. Simpson must prove that Milos owed her a duty of care, that Milos breached the standard of care, that Ms. Simpson suffered harm, and that Milos's breach caused that harm.
12. Ms. Simpson provided considerable medical and other documentary evidence proving she has diabetes. She provided no documentary evidence specific to March 18, 2023. Instead, she makes vague assertions that on that day, she got "extremely sick", suffered a "significant personal injury", and had a "deterioration in my health

condition". This falls far short of proving compensable harm. On that basis alone, Ms. Simpson's claim must fail, and I dismiss it.

13. In making this conclusion, I do not suggest that Ms. Simpson would have been successful if she had proven damages. I am restricting my reasoning to damages only for efficiency.
14. As the successful party, Milos is entitled to reimbursement of CRT fees and dispute-related expenses. However, Milos did not pay any CRT fees or claim any dispute-related expenses. So, I order none.

## **ORDER**

15. I refuse to resolve Ms. Simpson's claims about the *Human Rights Code* and the *Charter of Rights and Freedoms*. I dismiss Ms. Simpson's remaining claims.

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Eric Regehr, Vice Chair