



Civil Resolution Tribunal

Date Issued: June 11, 2024

File: SC-2023-005045

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Thomas v. City Furniture (2005) Ltd.*, 2024 BCCRT 530

BETWEEN:

MILES THOMAS

APPLICANT

AND:

CITY FURNITURE (2005) LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a dispute about a fridge. In January 2021 Miles Thomas bought a fridge from City Furniture (2005) Ltd. City Furniture stored the fridge for several months before Mr. Thomas' tenant picked it up in April 2021 and drove it to Mr. Thomas' rental home.

2. Mr. Thomas says City Furniture damaged the fridge while storing it. He claims \$4,000 for the cost of replacing the fridge, \$300 for the cost of transporting it, and \$700 in “unforeseen possible extra costs”, for a total of \$5,000.
3. City Furniture says Mr. Thomas’ claim is out of time. It also says Mr. Thomas’ tenant signed the fridge’s invoice stating that they received the fridge with no damage. City Furniture says it is not responsible for any damage the fridge incurred after it left the store.
4. Mr. Thomas is self-represented, and City Furniture is represented by an authorized employee or principal.

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). Section 2 of the CRTA states that the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness.
6. Section 39 of the CRTA 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.
7. 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.
8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

9. The issues in this dispute are:
 - a. Is Mr. Thomas' claim out of time?
 - b. If not, is Mr. Thomas entitled to \$5,000 to replace his fridge?

EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Mr. Thomas must prove his claims on a balance of probabilities, which means more likely than not. City Furniture did not submit any documentary evidence, despite having the opportunity to do so. I have read all the parties' evidence and submissions but refer only to what I find relevant to explain my decision. For the following reasons, I dismiss Mr. Thomas' claims.

Is Mr. Thomas' claim out of time?

11. Section 13 of the CRTA says the *Limitation Act* applies to the CRT. The *Limitation Act* creates a 2-year limitation period for most claims, including Mr. Thomas' claims in this dispute. Under section 8 of the *Limitation Act*, the limitation period starts running when a person discovers their claim. A party discovers a claim when they know or reasonably should know that another person or entity caused them to incur a loss, and that a legal proceeding would be an appropriate way to remedy the loss. Mr. Thomas applied to the CRT for dispute resolution on May 8, 2023. This means any claims he discovered before May 8, 2021 are out of time and must be dismissed even if they would have otherwise been successful.
12. City Furniture says Mr. Thomas' claim is out of time because he discovered it in April 2021, but did not start this dispute until May 8, 2023. Mr. Thomas does not specifically dispute this. For the following reasons, I agree with City Furniture, and I find Mr. Thomas' claim is out of time.
13. Mr. Thomas bought the fridge from City Furniture on January 13, 2021. City Furniture stored the fridge until Mr. Thomas' tenant picked it up on April 21, 2021 to take it to

Mr. Thomas' rental home. Mr. Thomas says City Furniture damaged the fridge sometime between January 13, 2021 and April 21, 2021.

14. Mr. Thomas submitted an email from his tenant, KA, who said they had to drive 8 hours from City Furniture to Mr. Thomas' rental home. KA said when they arrived at the rental home, they unpacked the fridge and noticed the alleged damage. KA said they quickly took some pictures of the alleged damage and sent them to Mr. Thomas.
15. There is no evidence that KA was delayed in returning to the rental home, in unpacking the fridge once they arrived there, or in contacting Mr. Thomas about the alleged damage. So, I find Mr. Thomas knew or should have known about the allegedly damaged fridge within a few days of April 21, 2021, and certainly before May 8, 2021. This means Mr. Thomas failed to start this dispute within 2 years of discovering his claim. I find Mr. Thomas' claim is out of time, and I dismiss it.
16. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. Since Mr. Thomas was unsuccessful, I find he is not entitled to reimbursement of his CRT fees. He did not claim any dispute-related expenses.

ORDER

17. I dismiss Mr. Thomas' claims and this dispute.

Sarah Orr, Tribunal Member