



Civil Resolution Tribunal

Date Issued: June 21, 2024

File: SC-2023-006813

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bray v. AutoLinx Motors Inc.*, 2024 BCCRT 584

BETWEEN:

STEPHEN JAMES BRAY

APPLICANT

AND:

AUTOLINX MOTORS INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about the sale of a used car from a dealership. The applicant, Stephen James Bray, purchased the car from the respondent, AutoLinx Motors Inc. (AutoLinx). Dr. Bray says AutoLinx is liable for repairs and parts totaling \$7,619.51. He claims \$5,000, which is equal to the tribunal's small claims limit.

2. AutoLinx denies liability. It says Dr. Bray purchased the car after obtaining a pre-purchase inspection from a third party, Bluestreak Automotive Ltd. (Bluestreak). AutoLinx says it then appropriately paid for repairs and replacement of the control arms, brake discs and pads, and discounted tires. It says Dr. Bray unreasonably refused to bring the car back for a refund or to have it fixed under a one-year warranty.
3. Dr. Bray represents himself. A director represents AutoLinx.
4. For the reasons that follow, I find Dr. Bray has proven part of his claim.

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.
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.

ISSUE

9. The issue is whether AutoLinx breached the parties' contract, and if so, what remedy is appropriate.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Dr. Bray as the applicant must prove his claims on a balance of probabilities. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. As noted above, Dr. Bray purchased a 2007 Land Rover Range Rover from AutoLinx. The parties did not provide a copy of their written agreement, if any. However, they partially documented the sale in their emails.
12. The emails omitted key terms such as the sale price and a warranty that Autolinx refers to. While the terms of the warranty are not before me, Dr. Bray's submissions to the Vehicle Sales Authority indicate he paid \$11,000. As there is no evidence or submission to the contrary, I accept this was the case.
13. The parties' January 2023 emails showed that Dr. Bray offered to pay to have an independent mechanic complete a mobile pre-purchase inspection. He said that if the inspection was favourable, he would put a deposit down and pay the balance once he had the car. AutoLinx agreed.
14. Dr. Bray hired Bluestreak as shown in a January 7, 2023 invoice. The inspection found several issues. AutoLinx agreed to repair and replace parts based on the inspection. January and February 2023 invoices and a March 15, 2023 email indicate the work included replacing the lower control arms, replacing the parking brake actuator, lower camber bolts, spark plugs and associated tube seals, valve cover gasket, replacing the rear brake and rotors and shoe, and the right rear sway bar.

15. Dr. Bray was satisfied with the work and agreed to purchase the vehicle around early March 2023. AutoLinx paid to deliver the car to Dr. Bray using a towing company. The company delivered the car to Dr. Bray on March 3, 2023. According to a written report, on March 13, 2023, Dr. Bray had MW Motor Werke Inc. (MW) inspect the car.
16. MW summarized its findings in an undated letter, another March 31, 2023 letter, and its March 31, 2023 invoice. The letters were written by someone named BVA. BVA said that there were steering and suspension issues which together constituted major safety issues. In particular, 1) the right lower control arms were not torqued correctly, and 2) the steering wheel was misaligned, causing the car to “wander” on the road. MW also said that the hood struts required replacement, 3 of 4 ride height connectors required replacement, a check engine light only partially illuminated, and a valve cover leaked.
17. CRT rule 8.3(2) says an expert must state their qualifications in any written expert opinion evidence. The CRT may waive this requirement under rule 1(2). Although BVA did not outline their qualifications, I find it clear BVA is a mechanic. So, I waive the requirement under rule 1(2) and find the BVA’s letters are expert evidence.
18. I also find that these safety issues existed before Dr. Bray purchased the car. This is because MW inspected the car almost immediately after Dr. Bray gained possession of it.
19. Dr. Bray advised AutoLinx about the potential cost of repairs based on BVA’s opinion and MW’s documents. AutoLinx offered to take the car back and repair it or provide a refund. Dr. Bray did not accept and decided to have repairs done on his own. I outline these below. Dr. Bray says he subsequently sold the car to a mechanic after this. He says he suffered a net loss of over \$8,500.

Did AutoLinx breach the parties’ contract?

20. As noted above, the parties provided little evidence about the contract terms that applied to the sale. However, I find section 18 of the *Sale of Goods Act* (SGA) applies. It sets out several implied warranties that apply to the commercial sale of goods,

including that the good was reasonably fit for its purpose, was of saleable quality, and would be reasonably durable considering the use to which it would normally be put and all the sale's surrounding circumstances.

21. I find these implied warranties applied to the car. There is no indication otherwise. I find Dr. Bray essentially argues that the car was not reasonably durable. In determining whether a vehicle is durable for a reasonable period of time, the CRT will generally consider the vehicle's age, mileage, price, the vehicle's use, reason for the breakdown, and expectations of the parties as shown by any express warranties. See *Sugiyama v. Pilsen*, 2006 BCPC 265. Older vehicles will generally be considered reasonably durable if they can safely be driven when purchased, even if they break down shortly afterwards. Generally, buyers of used vehicles must reasonably expect that defects could arise at any time. See *Wanless v. Graham*, 2009 BCSC 578.
22. Here, the car was approximately 16 years old at the time of purchase. I find the purchase price of \$11,000 was moderate. It had a high mileage of 161,710 kilometers as shown in MW's documents. Given the vehicle's age, price, and mileage, I find the implied warranty under SGA section 18(c) was limited to requiring that the vehicle was roadworthy and could be safely driven when purchased. I find this consistent with the scope of repairs that AutoLinx paid for. This is because the repairs were largely about restoring function rather than fixing the appearance or upgrading features.
23. Based on MW's evidence I am satisfied that the car was not roadworthy at the time of purchase. As noted earlier, MW explicitly said that the car had major safety issues. I also find that by accepting the car after Bluestreak completed repairs, he did not waive any entitlement under SGA section 18. I say this because there is no indication that he did so. So, I find AutoLinx liable for breach of contract.
24. AutoLinx says that Dr. Bray should have accepted its offer to return the car for a full refund, or bring it back to Bluestreak for further repairs, presumably at AutoLinx's cost. I find that AutoLinx essentially argues Dr. Bray did not mitigate his loss.

25. Dr. Bray disagrees and says it was unsafe to return the car, and AutoLinx did not accept responsibility for return transportation.
26. As noted above, the warranty terms are not in evidence. So, I find it unproven that Dr. Bray unreasonably refused to use the warranty. I also find Dr. Bray would have reasonably lost confidence in Bluestreak by this time as it did not repair the car to a safely drivable state. Further, by repairing the car locally, Dr. Bray saved on transportation costs. I also it was reasonable to attempt to fix the car as the cost of repairs was still several thousand dollars less than the cost of the car.
27. I now turn to damages. Damages for breach of contract are intended to place the innocent party in the position they would have been in if the contract had been carried out as agreed. See *Water's Edge Resort Ltd. v. Canada (Attorney General)*, 2015 BCCA 319. I find that AutoLinx should pay for damages to bring the car back to a roadworthy state. MW's March 31, 2023 report indicates that this means the steering and suspension issues were the major safety issues that had to be fixed. So, I find Dr. Bray's damages should be the cost of fixing these issues.
28. Dr. Bray had repairs done totaling \$7,619.51. They are as follows: 1) MW replaced the hood struts, fitted the lower left ride height sensor, and tightened the loose control arm as shown in a March 31, 2023 invoice for \$1,507.02, 2) Jaguar Land Rover Kelowna replaced suspension parts and fixed suspension issues shown in a April 29, 2023 invoice for \$1,430.68, 3) Jaguar Land Rover Kelowna also replaced car parts including a parking brake module as shown in a June 12, 2023 invoice for \$3,734.04, 4) RH Wheel and Brake aligned the wheels as shown in a July 5, 2023 invoice for \$196.05, and 5) Independent Euro fixed a coolant leak as shown in an October 9, 2023 invoice for \$751.72. I note the June 12 invoice appears to also include work from the April 29, 2023 invoice.
29. MW's March 31, 2023 itemized invoice is largely for work regarding the suspension as it details work about the ridge height sensor and control arm. Minus the work for the hood struts at \$213.50 plus tax, I find the remaining \$1,267.90 is compensable. Jaguar Land Rover Kelowna did further work on the suspension in its April 29, 2023

invoice for \$1,430.68. So, I include this as well. As the wheel alignment was a safety issue, I also include the July 5, 2023 RH Wheel and Brake invoice for \$196.05. I find the damages total \$2,912.08.

30. The *Court Order Interest Act* applies to the CRT. Dr. Bray is entitled to pre-judgment interest on the damages of \$2,912.08 from July 5, 2023, the date of the last invoice for repairs, to the date of this decision. This equals \$142.86.

31. 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. I find Dr. Bray is entitled to reimbursement of \$175 in CRT fees as he proved most of his claim. The parties did not claim any specific dispute-related expenses.

ORDERS

32. Within 30 days of the date of this order, I order AutoLinx to pay Dr. Bray a total of \$3,229.94, broken down as follows:

- a. \$2,912.08 as damages for breach of contract,
- b. \$142.86 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

33. Dr. Bray is entitled to post-judgment interest, as applicable.

34. 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.

David Jiang, Tribunal Member