



Civil Resolution Tribunal

Date Issued: June 25, 2024

File: SC-2023-000434

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hadani v. Club16 GP Ltd. dba Club 16 Trevor Linden Fitness*, 2024 BCCRT
600

BETWEEN:

RAHIM HADANI

APPLICANT

AND:

CLUB16 GP LTD. (DBA CLUB 16 TREVOR LINDEN FITNESS)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. The applicant, Rahim Hadani, is a former member at the respondent gym, Club16 GP Ltd. (dba Club 16 Trevor Linden Fitness). Mr. Hadani says Club16 breached its agreements with him. As a result of the various alleged breaches, Mr. Hadani seeks damages of \$2,500 (which he increased to \$4,901.85 in his submissions), as a refund

for membership fees and personal training sessions he did not use, and reimbursement for various out-of-pocket expenses. Mr. Hadani represents himself.

2. Club16 denies breaching any of the parties' agreements. It says it gave Mr. Hadani a partial refund out of goodwill, and does not owe Mr. Hadani anything further. Club16 is represented by an authorized employee.

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 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.
4. Section 39 of the CRTA says that 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.
5. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
6. 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.
7. I note the parties' agreements all have an arbitration clause. However, neither party sought to rely on the arbitration clause, so I find the CRT has jurisdiction to decide this dispute under its small claims jurisdiction in section 118 of the CRTA.

ISSUE

8. The issue in this dispute is whether Club16 breached any of its agreements, and if so, what Mr. Hadani's damages are.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant Mr. Hadani must prove his claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.
10. Mr. Hadani signed a Regular Membership Agreement with Club16 on July 5, 2021. On December 19, 2021, Mr. Hadani upgraded his membership to "Elite Plus". The upgraded membership was effective from December 19, 2021 to December 18, 2022, after which it would continue on a month-to-month basis.
11. On May 10, 2022, Mr. Hadani signed a Personal Training Agreement, which provided him with 12 personal training sessions, which expired on August 2, 2022. He paid \$1,039.50 for the personal training sessions. Mr. Hadani cancelled all of his Club16 memberships in October 2022.
12. Mr. Hadani makes several allegations. First, he says the personal trainer he was working with changed their schedule, so Mr. Hadani was no longer able to attend the personal training sessions. As a result, he requested a refund from Club16 in October 2022. Club16 says Mr. Hadani was outside of his cancellation window, but provided him with a refund anyway. It undisputedly refunded him \$727.65, after deducting a 30% administrative fee, as permitted by parties' Regular Membership Agreement. Mr. Hadani claims the \$311.85 difference.
13. Although the Regular Membership Agreement allows Club16 to withhold a 30% administration fee when a member cancels their agreement due to a "material change", I find this clause is not included in the parties' Personal Training Agreement.

However, nothing turns on this because I find Mr. Hadani was not entitled to cancel the Personal Training Agreement for a refund in any event.

14. First, although Mr. Hadani says Club16 agreed to refund him the entire \$1,039.50 with no administrative fees, I find that is not shown by the parties' emails in evidence. Club16's employee said they would not deduct the 2 sessions Mr. Hadani undisputedly used, but did not say anything about administrative fees.
15. Second, the Personal Training Agreement says that it is non-transferable and non-cancellable after 10 days. That means Mr. Hadani's right to cancel the agreement ended on May 20, 2022. Mr. Hadani says Club16's trainer made him sign the agreement before Mr. Hadani went on vacation for 14 days so he could not have cancelled the agreement in the window. However, Mr. Hadani undisputedly signed the agreement and did not explain why he could not have waited until after his vacation to sign it, if he did not want to feel rushed.
16. Third, Mr. Hadani did not seek to cancel the contract until October 2022, after the sessions had expired in August. Club16 says Mr. Hadani never requested to extend the expiry date, so the agreement was complete. I agree. There is no evidence that Mr. Hadani attempted to cancel the agreement while it was active. I find there was no basis for Mr. Hadani to request cancellation of the Personal Training Agreement in October 2022. Despite this, Club16 provided a partial refund. However, I find this was out of goodwill, and there was no legal requirement for Club16 to refund him anything from the Personal Training Agreement. I dismiss this aspect of his claim.
17. Mr. Hadani also claims \$400 for a training session he says his personal trainer missed, and \$3,200 for his time spent trying to get a refund from Club16, based on his alleged \$400 hourly rate. I find these claims unproven. First, Club16 provided a statement from its personal trainer, JS, who denied missing the training session. Instead, JS said that he and Mr. Hadani had not confirmed when the next session would be, and Mr. Hadani mistakenly assumed they had another session booked. In any event, Mr. Hadani did not provide any evidence of his hourly rate, or the hours he allegedly spent dealing with Club16. I dismiss these claims on that basis.

18. Next, Mr. Hadani claims a \$900 refund for his membership fees, which he says is a 50% refund of what he paid. He says Club16's equipment and facilities were substandard, frequently broken, and not properly calibrated, which Club16 denies. Mr. Hadani did not provide any documentary evidence supporting these allegations, such as photos of damaged or out-of-service equipment. Neither does Mr. Hadani explain the \$900 figure, given his biweekly payments were \$13.98, and he terminated his agreement after approximately 16 months. I dismiss Mr. Hadani's claim for a refund of his gym membership fees as unproven.
19. Mr. Hadani also claims reimbursement of \$50 he says he was charged after he requested cancellation of his Regular Membership Agreement. However, again, Mr. Hadani did not provide any evidence that he was charged this amount, such as bank statements. Club16 says Mr. Hadani failed to pay its \$75 cancellation fee, which Mr. Hadani does not deny. So, I find the parties owe each other roughly the same amount, and make no order for payment by either party relating to contract termination. I also note Club16 did not charge Mr. Hadani for the unused portion of his contract, which was not set to expire until December 19, 2022, and then required at least 30 days after the expiry for cancellation.
20. Finally, Mr. Hadani asks for reimbursement of \$40 for a doctor's note he obtained to assist in cancelling his membership. Mr. Hadani did not provide any receipt, so I also dismiss this claim as unproven.
21. In summary, I dismiss all of Mr. Hadani's claims.
22. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. Mr. Hadani was unsuccessful, so I dismiss his claim for reimbursement of tribunal fees. Club16 did not pay any tribunal fees or claim dispute-related expenses.

ORDER

23. Mr. Hadani's claims are dismissed.

Andrea Ritchie, Vice Chair