



# Civil Resolution Tribunal

Date Issued: June 26, 2024

File: SC-2023-007528

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Reay v. Sheridan*, 2024 BCCRT 601

BETWEEN:

DANIEL AARON REAY

**APPLICANT**

AND:

AUSTIN SHERIDAN

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. Daniel Aaron Reay bought a travel trailer from Austin Sheridan for \$4,000, and paid an additional \$500 for a hitch and delivery. Mr. Reay says Mr. Sheridan misrepresented that the trailer had no leaks. Mr. Reay claims a \$4,500 refund for the trailer, hitch, and delivery. In submissions, he also says he wants Mr. Sheridan to take the trailer back.

2. Mr. Sheridan says he is not responsible to refund Mr. Reay. He says there were no visible leaks when he owned the trailer. He says he told Mr. Reay about the issues he knew about, and Mr. Reay walked through the trailer and was happy with it when he purchased it.
3. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.
7. 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.

### ***Settlement discussions***

8. Mr. Reay included an audio recording when Mr. Sheridan visited his home after the CRT dispute had started. Mr. Sheridan says the recording includes informal

negotiation and settlement discussions, and he did not agree to include this evidence. Mr. Reay says the recording does not include any “official negotiations” within the CRT process. However, he does not dispute that the recording included negotiations and settlement discussions between the parties after this dispute started. CRT rule 1.11 says that parties cannot disclose settlement discussions unless all parties agree. Mr. Sheridan does not agree to include any settlement discussions. Therefore, I have not considered the audio recording in my decision.

## ISSUES

9. The issues in this dispute are:
  - a. Did Mr. Sheridan misrepresent the trailer’s condition?
  - b. If yes, is Mr. Reay entitled to a refund of \$4,500 for the trailer?

## EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Mr. Reay must prove his claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties’ submissions and evidence but refer only to what I find necessary to explain my decision.
11. Mr. Reay provided a copy of Mr. Sheridan’s July 4, 2023 Facebook post advertising the trailer for sale. In the listing, Mr. Sheridan said the trailer was previously his grandparents’ and was very well taken care of “on the interior and mechanical side of things”. He said there were “a couple exterior flaws but nothing crazy. **No leaks** everything works in the trailer” (reproduced as written, my bold emphasis added).
12. Mr. Reay says he advised Mr. Sheridan that his only concern was the trailer having no leaks, and Mr. Sheridan reassured him it did not. Mr. Reay says he purchased the trailer on that basis. It is undisputed that Mr. Reay purchased the trailer, including delivery and a hitch, for \$4,500.

13. Mr. Reay says Mr. Sheridan delivered the trailer on July 7, 2023, and he walked through the trailer with Mr. Sheridan at that time. Mr. Reay says he did not see any issues at that time because the trailer was full of Mr. Sheridan's belongings. Mr. Sheridan did not deny that the trailer was full of his belongings, but says he gave Mr. Reay plenty of time to inspect the trailer.
14. Mr. Reay says he emptied Mr. Sheridan's belongings from the trailer the following day, and discovered water damage and rot in the walls, roof and floor. Mr. Reay also provided photographs that show cracks inside the trailer's cabinets with daylight coming in from outside. Mr. Reay says he called Mr. Sheridan the same day and told him about the trailer issues. Text messages between the parties on July 8, 2023 show Mr. Sheridan told Mr. Reay to call Mr. Sheridan's grandfather to discuss the issues found. On July 9, 2023, Mr. Reay asks Mr. Sheridan to consider taking the trailer back because of all the water damage, and Mr. Sheridan said he would but he had already spent the \$4,500 Mr. Reay paid for it.
15. Mr. Reay says it rained the third day after the trailer was dropped off, and the trailer leaked. He provided a video from July 10, 2023, showing water dripping inside the trailer from the ceiling.
16. Mr. Sheridan says there were no visible leaks when he owned the trailer, and says he made Mr. Reay aware of the all the problems he himself was aware of. As noted above, Mr. Sheridan's Facebook ad says the trailer previously belonged to his grandparents. In text messages between the parties after Mr. Reay raised concerns with the trailer, Mr. Sheridan said he had only used the trailer twice.

***Did Mr. Sheridan misrepresent the trailer's condition?***

17. In the sale of used goods, the general rule is "buyer beware". This means that a buyer who fails to have the goods inspected is subject to the risk that they did not get what they thought they were getting and made a bad bargain.
18. In *Mah Estate v. Lawrence*, 2023 BCSC 411, the court recently found that to be entitled to compensation, a buyer must prove fraud, negligent misrepresentation,

breach of contract, breach of warranty, or known latent (hidden) defect. The applicant must show that “buyer beware” does not apply because at least one of those conditions exists.

19. As noted above, Mr. Reay says Mr. Sheridan misrepresented the trailer by saying it had no leaks, when the trailer actually had leaks and water damage.
20. A misrepresentation is a false statement of fact that has the effect of inducing a reasonable person to enter into a contract. Fraudulent misrepresentation is when a person makes a false statement of fact and the person either knew it was false, or recklessly made it without knowing whether it was true or false. A negligent misrepresentation is made by someone who fails to take due care to ensure the representation is true.
21. To prove negligent misrepresentation, Mr. Reay must establish, 1) Mr. Sheridan owed him a duty of care, 2) the representation was untrue, inaccurate, or misleading, 3) Mr. Sheridan acted negligently in making the misrepresentation, 4) Mr. Reay reasonably relied on the negligent misrepresentation, and 5) Mr. Reay’s reliance resulted in damages. See *Queen v. Cognos Inc.*, [1993] 1 SCR 87.
22. As the seller of the used trailer, Mr. Sheridan had a duty to take reasonable care not to mislead Mr. Reay, as the buyer, about the trailer’s condition. See *Daniel v. Watkinson*, 2019 BCPC 319.
23. In the Facebook ad, Mr. Sheridan explicitly stated the trailer had “no leaks”. As noted, Mr. Reay raised the issues with the trailer with Mr. Sheridan the day after purchase, and provided video evidence that shows the trailer leaking 3 days after Mr. Reay purchased it.
24. Mr. Sheridan maintains that the trailer did not leak when he owned it, and provided witness statements from 3 people who I infer are friends and family that say the same. However, Mr. Sheridan did not address the photographs Mr. Reay provided that show cracks in the back of some emptied cabinets and daylight entering into the trailer, or deny that the photos show cracks in the trailer. Mr. Sheridan also does not deny that

Mr. Reay found water damage in the trailer the day after he purchased the trailer. Finally, Mr. Sheridan also did not address the video evidence that shows water leaking into the trailer, nor deny that the trailer leaked 3 days later, when it rained after Mr. Reay purchased it.

25. The documentary evidence of the trailer' condition, including the photographs of the cracks and the video of the leak 3 days after it was purchased, are inconsistent with Mr. Sheridan's submissions that the trailer had no leaks. Given this documentary evidence, I do not accept Mr. Sheridan's submissions that the trailer had no leaks when he owned it, and I place no weight on the witness statements Mr. Sheridan provided.
26. Given that Mr. Reay discovered the undisputed water damage and cracks the day after he bought the trailer, and experienced leaks 2 days later, I find the trailer likely had leaks at the time of sale. This means Mr. Sheridan's Facebook post advertising the trailer for sale was inaccurate. Based on the evidence as a whole, I find Mr. Sheridan knew, or at the very least reasonably ought to have known, that the trailer had leaks at the time he advertised it for sale and sold it to Mr. Sheridan.
27. Despite this, Mr. Sheridan made a firm declarative statement that the trailer had "no leaks" to induce potential buyers to purchase the trailer. I find doing so was a breach of the standard of reasonable care not to mislead a purchaser – in this dispute, Mr. Reay. I find Mr. Reay relied on the clear, unambiguous, and specific statement about the trailer having "no leaks" in deciding to buy the trailer. So, I find Mr. Sheridan negligently misrepresented the trailer condition, and Mr. Reay is entitled to damages.

***Is Mr. Reay entitled to refund?***

28. Damages for misrepresentation are based on the principle of putting the injured party in the position they would have been in had the other party not made the representation. See *Payne v. Eagle Ridge Pontiac GMS Ltd.*, 2010 BCSC 1085.
29. I find Mr. Reay has established that without Mr. Sheridan's misrepresentation about the trailer's condition, he would not have spent \$4,500 on the trailer, including the

\$500 hitch and delivery costs. Mr. Reay also provided a quote that shows the cost to repair the trailer is over \$7,000. Considering the repair costs far exceed the purchase price, I find the appropriate remedy is for Mr. Sheridan to refund Mr. Reay for the trailer's purchase price. So, I find Mr. Sheridan must refund Mr. Reay \$4,500 for the trailer, including the hitch and delivery charge.

30. I find it is unnecessary to address whether Mr. Reay should return the trailer to Mr. Sheridan because Mr. Sheridan does not say he wants it back and based on the evidence of the trailer's condition and repair costs, I find the trailer has little to no value. So, I make no finding or order about its return.

### ***Interest, CRT fees and expenses***

31. The *Court Order Interest Act* applies to the CRT. Mr. Reay is entitled to pre-judgment interest on the \$4,500 from July 7, 2023, the date of purchase, to the date of this decision. This equals \$222.74.

32. 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. As Mr. Reay was successful, I find he is entitled to reimbursement of \$175 in paid CRT fees. Neither party paid any dispute-related expenses.

## **ORDERS**

33. Within 30 days of the date of this order, I order Mr. Sheridan to pay Mr. Reay a total of \$4,897.74, broken down as follows:

- a. \$4,500 as a refund of the trailer's purchase price, including the hitch and delivery,
- b. \$222.74 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

34. Mr. Reay is entitled to post-judgment interest, as applicable.

35. 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.

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Leah Volkers, Tribunal Member