



Civil Resolution Tribunal

Date Issued: June 28, 2024

File: SC-2023-003553

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lu v. Price*, 2024 BCCRT 625

B E T W E E N :

MENG LU

APPLICANT

A N D :

JAMES FREDERICK PRICE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. The applicant, Meng Lu, agreed to buy a toy hoverboard from the respondent, James Frederick Price, for \$100, and e-transferred him that amount. The applicant was unable to collect the hoverboard right away. After about 10 days, the respondent told the applicant he could not find the hoverboard's charger. Eventually, the applicant

requested a refund, and the respondent stopped replying to the applicant's messages. The applicant claims \$100 for the hoverboard's price.

2. The respondent says he gave the applicant ample time and opportunity to collect the hoverboard, but they did not do so. The respondent says the hoverboard is still available for the applicant to collect, so he owes the applicant nothing.
3. The parties are each self-represented.

JURISDICTION AND PROCEDURE

4. These are the Civil Resolution Tribunal's (CRT) formal written reasons. The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 states 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.
5. 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. Here, I find 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 an oral hearing is not necessary in the interests of justice.
6. In the Dispute Notice issued at the start of this proceeding, the applicant named the respondent as "James Fredrick Price." Based on the Dispute Response and submitted evidence, I find this is a misspelling, and that the respondent's name is "James Frederick Price". So, I have exercised my discretion under CRTA section 61, and I have amended the respondent's name in the style of cause above.
7. CRTA section 42 says the CRT may accept as evidence information it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.

8. Where permitted by CRTA section 118, 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 in this dispute is whether the applicant is entitled to \$100 as reimbursement for the hoverboard's paid price.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities, meaning more likely than not. I have read all the parties' submissions and evidence, but refer only to information I find relevant to explain my decision. The respondent did not submit any documentary evidence despite having the opportunity to do so.
11. The respondent listed the hoverboard for sale on Facebook Marketplace in late February 2023. The applicant messaged the respondent expressing their interest, and then agreed to pay the respondent's asking price of \$100. The applicant e-transferred the respondent \$100, but as I mentioned above, they were unable to collect the hoverboard immediately.
12. After at least one failed collection attempt, on March 6, the applicant again asked if they could collect the hoverboard. The respondent replied that he could not find the hoverboard's charging cable, as it had been packed in one of his moving boxes. The applicant asked for a photo of the hoverboard's plug to see if they had a charging cable that would work. The respondent told them it was an unusual plug, and did not send a photo. On March 22, the applicant asked the respondent for a refund, and provided their email address. The respondent agreed to refund the applicant \$100 but never did, and eventually he stopped replying to the applicant's messages.

13. I find the parties' text messages about the applicant buying the hoverboard from the respondent for \$100 formed the basis of their contract. I find the contract included an implied term that the hoverboard would come with the necessary charging cable.
14. Contractual terms may be implied 1) based on custom or usage, 2) based on a particular class or kind of contract, or 3) or as necessary for business efficacy, where the term would have been obviously assumed (see *M.J.B. Enterprises Ltd. v. Defence Construction (1951) Ltd.*, 1999 CanLII 677 (SCC), at paragraph 27).
15. Here, I find the charging cable term was necessary for business efficacy. The "officious observer" analysis explains why this is the case. That analysis asks if, while the parties were making their bargain, an officious bystander were to have suggested an express term, the parties would have said, "Oh, of course!" (see *Zeitler v. Zeitler (Estate)*, 2010 BCCA 216, at paragraph 28). Here, I find both parties would have said that about including a charging cable term, because without the necessary cable, the hoverboard was essentially useless. This is supported by the respondent's assertion that the cable was unique.
16. So, I find by not providing the charging cable with the hoverboard, the respondent breached the parties' contract.
17. Even if I had not found an implied contractual term, I would have found the parties had amended their contract when the applicant asked for, and the respondent agreed to, a refund on March 22.
18. In these circumstances, I find the applicant is entitled to reimbursement of the contract price. I order the respondent to pay the applicant \$100.
19. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$100 from March 22, 2023, the date they first requested reimbursement of the contract price, to the date of this decision. This equals \$6.29.
20. 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 find the applicant is entitled to reimbursement of \$125 in CRT fees. The applicant did not request dispute-related expenses, so I order none.

ORDERS

21. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$231.29, broken down as follows:
 - a. \$100 as reimbursement for the hoverboard contract price,
 - b. \$6.29 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 for CRT fees.
22. The applicant is entitled to post-judgment interest, as applicable.
23. 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.

Megan Stewart, Tribunal Member