



# Civil Resolution Tribunal

Date Issued: November 6, 2024

File: SC-2023-008077

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kaneson v. Air Canada*, 2024 BCCRT 1129

BETWEEN:

RAGHURAMAN KANESON

**APPLICANT**

AND:

AIR CANADA

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about compensation for delayed baggage. Raghuraman Kaneson's baggage was delayed 24 hours after flying Air Canada from Singapore to Vancouver, through San Francisco. Mr. Kaneson claims \$1,533.11 as compensation for essentials he had to purchase while waiting for his bags. Mr. Kaneson represents himself.

2. Air Canada says Mr. Kaneson's purchases were unnecessary and excessive. Although it initially offered to reimburse Mr. Kaneson approximately \$210, Mr. Kaneson declined to accept it. Air Canada now says Mr. Kaneson's claim should be dismissed. Air Canada is represented by an in-house paralegal.

## **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. The CRT conducts most hearings by written submissions, but has discretion to decide the hearing's format, including by telephone or videoconference. Based on the evidence and submissions provided, I am satisfied I can fairly decide this dispute without an oral hearing, nor was one requested.
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.

## **ISSUE**

7. The issue in this dispute is whether Mr. Kaneson is entitled to the claimed \$1,533.11 for his delayed baggage.

## EVIDENCE AND ANALYSIS

8. In a civil proceeding like this, Mr. Kaneson as the applicant must prove his claims on a balance of probabilities (meaning “more likely than not”). I have read all of the parties’ submitted evidence and arguments, but have only addressed those necessary to explain my decision.
9. As noted above, Mr. Kaneson flew from Singapore to Vancouver, through San Francisco. Air Canada operated the San Francisco to Vancouver leg of his flight. Mr. Kaneson’s 2 checked bags did not arrive with him in Vancouver. Air Canada located the bags and delivered them to Mr. Kaneson 24 hours after Mr. Kaneson arrived in Vancouver.
10. While he did not have his baggage, Mr. Kaneson purchased various items he says were essential and necessary. Air Canada says Mr. Kaneson’s purchases went beyond what was reasonable in the circumstances of a 24-hour delay.

### ***The applicable law***

11. The *Convention for the Unification of Certain Rules for International Carriage by Air* (commonly known as the *Montreal Convention*) is an international treaty with the force of law in Canada under the federal *Carriage by Air Act*. It applies to all international air carriage of people, baggage, and cargo, including Mr. Kaneson’s international flight. The *Montreal Convention* limits the scope and type of claim a person can make against an airline like Air Canada.
12. Article 22 of the *Montreal Convention* limits compensation for baggage delay to 1,288 special drawing rights per passenger. As of today, this equals approximately \$2,388 CAD.<sup>1</sup> Air Canada adopted this limit in its international tariff. However, nothing turns on the limit given Mr. Kaneson’s claim is for less.

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<sup>1</sup> [https://www.imf.org/external/np/fin/data/rms\\_five.aspx](https://www.imf.org/external/np/fin/data/rms_five.aspx)

## **Expenses**

13. It is undisputed that Mr. Kaneson incurred expenses because of the delayed baggage. I find Mr. Kaneson is entitled to reimbursement for reasonable purchases he made while waiting for his bags to arrive. However, I find Mr. Kaneson is not entitled to the claimed \$1,533.11.
14. Mr. Kaneson provided the following receipts:
  - a. \$431.02 from Banana Republic,
  - b. \$313.60 from Lululemon,
  - c. \$493.50 from Sephora,
  - d. \$159.04 from Topdrawers, and
  - e. \$136.41 from Zara.
15. The receipts actually total \$1,533.12, instead of the \$1,533.11 claimed, which I infer is the result of an arithmetic error.
16. In total, Mr. Kaneson purchased 4 pairs of socks, 2 pairs of underwear, 2 jockstraps, 1 pair of shorts, 4 pairs of pants, 4 shirts, and nearly \$500 worth of toiletries, including \$184.80 for cologne. Mr. Kaneson says these items were the bare essentials. While I accept that at the time Mr. Kaneson purchased the item he did not know when his bags would be delivered, they were ultimately delayed only 24 hours.
17. Mr. Kaneson says he had to attend a dinner the night he arrived, and went to the gym the next morning. He did not explain any other activities he had planned before his bags were returned.
18. I find it was reasonable for Mr. Kaneson to purchase a pair of pants and a shirt for dinner that evening, as well as some gym clothes and clothes for the next day. On a judgment basis, I find Air Canada must reimburse \$400 for these items.

19. Next, the toiletries. I find spending \$493.50 on toiletries excessive given the 24-hour delay. On a judgment basis, I find Air Canada must reimburse Mr. Kaneson \$100 for reasonable toiletries purchases.
20. Mr. Kaneson has not adequately explained why he needed to keep all the items he purchased. I note that several of the receipts indicate return policies that would have allowed Mr. Kaneson to return items he had not yet used. I find it unlikely he had used all the items he purchased in the approximately 20 hours between purchase and when his bags were returned. I find he could have mitigated his losses by returning unused items for a refund. So, I order no further reimbursement.
21. In total, I find Air Canada must reimburse Mr. Kaneson \$500.
22. Mr. Kaneson is entitled to pre-judgment interest under the *Court Order Interest Act*. Calculated from June 24, 2023 purchase date, this equals \$34.55.
23. 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. Kaneson was partially successful, so I order Air Canada to reimburse him half of his paid tribunal fees, for a total of \$62.50. He did not claim any dispute-related expenses.

## **ORDERS**

24. Within 21 days of the date of this decision, I order Air Canada to pay Mr. Kaneson a total of \$597.05, broken down as follows:
  - a. \$500 in damages,
  - b. \$34.55 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$62.50 as reimbursement of tribunal fees.
25. Mr. Kaneson is also entitled to post-judgment interest, as applicable.

26. 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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Andrea Ritchie, Vice Chair