



Civil Resolution Tribunal

Date Issued: November 20, 2024

File: SC-2023-005187

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Liao v. 1871859 Ontario Inc. (dba The Modern Shop)*, 2024 BCCRT 1173

B E T W E E N :

JIWEN LIAO

APPLICANT

A N D :

1871859 ONTARIO INC. Doing Business As THE MODERN SHOP

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers, Vice Chair

INTRODUCTION

1. This dispute is about a damaged bed frame.
2. In 2021, the applicant, Jiwen Liao, ordered a bed frame from the respondent, 1871859 Ontario Inc., doing business as The Modern Shop (TMS), through TMS's

online store at themodernshop.ca. The bed arrived with damage that prevented its assembly. TMS agreed to provide a replacement, but never did.

3. Mrs. Liao asks for a refund of the \$1,813.56 purchase price. TMS says it offered to replace the damaged unit and says it can now offer store credit or a replacement. I infer it asks me to dismiss Mrs. Liao's claims.
4. Mrs. Liao is self-represented. TMS is represented by its owner, Michael Shaikin.
5. For the reasons that follow, I allow Mrs. Liao's claim.

JURISDICTION AND PROCEDURE

6. These are the Civil Resolution Tribunal (CRT)'s formal written reasons. The CRT has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 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.
7. CRTA section 39 says the CRT has discretion to decide the hearing's format, 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.
8. CRTA section 42 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.
9. 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

10. The issue in this dispute is whether Mrs. Liao is entitled to a refund from TMS for the damaged bed frame.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, Mrs. Liao, as applicant, must prove her 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. I note that despite having the opportunity to do so, TMS did not provide any documentary evidence.
12. On November 24, 2021, Mrs. Liao purchased a bed frame from TMS. One of the pieces arrived damaged, preventing the bed's assembly. Mrs. Liao contacted TMS about a replacement part. In a July 19, 2022 email, TMS agreed to replace the damaged part by sending an entirely new bed. It said it would do so in mid-August.
13. I find TMS's agreement to replace the damaged bed is a binding agreement between the parties. It is a settlement agreement that arises from TMS's acknowledgment of its failure to meet its original obligations to Mrs. Liao. I find it is bound by its accepted offer to replace the damaged pieces.
14. In early September 2022, Mrs. Liao received a package from TMS. Instead of being a whole bed, it was one cardboard box, marked with a handwritten "3/3." It did not contain the damaged piece required to fix the bed. Despite the 3/3 marking, the shipping label on the box confirms the shipment was only 1 package.
15. Mrs. Liao again contacted TMS, advising them she had not received all 3 packages. A TMS employee assured her the other packages had been sent and would arrive within a "week or so," but did not respond to Mrs. Liao's request for the tracking number. The necessary replacement piece never arrived.

16. For its part, TMS says in the Dispute Response that it shipped all the necessary pieces to Mrs. Liao. TMS says the 3rd party shipping company denied the claim that it did not deliver everything.
17. However, I find Mrs. Liao has proved TMS failed to meet its obligations under the parties' settlement agreement. Specifically, I find Mrs. Liao has proved she only received 1 of 3 boxes necessary to replace the entire bed, and I accept her evidence that it did not contain the necessary piece to make the original bed usable.
18. While TMS says its shipper delivered the "goods," it does not address Mrs. Liao's evidence that the shipping label shows it only sent 1 of 3 boxes. TMS also does not address whether the box it did send contained the damaged piece necessary to make the bed useable.
19. Since the bed frame was delivered in an unusable condition, and TMS failed to then meet its obligations under the subsequent offer to address the damage, I find Mrs. Liao is entitled to damages of \$1,813.56, which is a total refund of the unusable bed frame.
20. The *Court Order Interest Act* applies to the CRT. Mrs. Liao is entitled to pre-judgment interest on the purchase price from November 24, 2021, the date of the order, to the date of this decision. This equals \$176.19.
21. Under CRTA section 49 and the 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 Mrs. Liao is entitled to reimbursement of \$125 in CRT fees and \$44.99 in dispute-related expenses for registered mail and a small amount for printing services, which I infer are for the documents she mailed.

ORDERS

22. Within 14 days of the date of this order, I order TMS to pay Mrs. Liao a total of \$2,159.74, broken down as follows:

- a. \$1,813.56 in damages,
- b. \$176.19 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$169.99, for \$125 in CRT fees and \$44.99 for dispute-related expenses.

23. Mrs. Liao is entitled to post-judgment interest, as applicable.

24. This is a validated decision and order. Under CRTA section 58.1, 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.

Christopher C. Rivers, Vice Chair