



Civil Resolution Tribunal

Date Issued: March 10, 2025

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Zmyslowski v. Style Moving and Storage Inc. dba Style Moving, Style*,
2025 BCCRT 310

B E T W E E N :

DANIEL ZMYSLOWSKI

APPLICANT

A N D :

STYLE MOVING AND STORAGE INC. (Doing Business As STYLE
MOVING, STYLE)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr, Vice Chair

INTRODUCTION

1. Daniel Zmyslowski hired Style Moving and Storage Inc., which does business as Style or Style Moving, to move his belongings. He says Style Moving destroyed his office desk and misplaced his mountain bike. He claims a total of \$4,649.99: \$750

for a replacement desk and \$3,899.99 for a replacement mountain bike. Mr. Zmyslowski is self-represented.

2. Style Moving says the parties' contract excludes any liability for furniture made of pressboard, particle board, or engineered wood, such as the desk. Style Moving also says their contract excludes liability for any item worth over \$500 unless the customer makes a value declaration and pays an additional fee, which Mr. Zmyslowski did not do. So, Style Moving says it owed Mr. Zmyslowski nothing.
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 says 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.
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. I have considered the potential benefits of an oral hearing. Here, I am properly able to assess and weigh the documentary evidence and submissions before me. So, any potential benefit of an oral hearing is outweighed by the CRT's mandate to provide proportional and speedy dispute resolution. I find that an oral hearing is not necessary in the interests of justice.
6. CRTA section 42 says the CRT may accept as evidence any information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

7. Where permitted by CRTA section 118, in resolving this dispute the CRT may order a party to pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.

ISSUES

8. The issues in this dispute are:
 - a. Did Mr. Zmyslowski agree to the exclusion clauses in Style Moving's contract?
 - b. If he did, are those terms unconscionable or otherwise unenforceable?
 - c. If he did not, is Style Moving responsible for the missing and damaged items, and how much are they worth?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Mr. Zmyslowski as the applicant must prove his claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. Mr. Zmyslowski hired Style Moving to move his belongings from Chilliwack, BC, to Edmonton, Alberta. Style Moving picked up his things on April 19, 2023. The delivery date is not clear but it was in early May. Mr. Zmyslowski says the movers delivered his office desk damaged beyond repair. There are photos showing the desk that I agree show it was unrepairable. Style Moving does not deny causing the damage, so I find it did. He also says they never delivered his high-end mountain bike. Style Moving admitted to losing the bike in a May 10, 2023 email.
11. Style Moving relies on several terms in its standard form contract, which Mr. Zmyslowski signed when Style Moving arrived on April 19, 2023. As Style Moving interprets its contract, it excluded any liability for any furniture made of pressboard, particle board, or engineered wood (like the desk) and for items worth more than

\$500 (like the mountain bike). Those terms are spread across the two-page document, are in very small print, and are contradictory and inconsistent. Given my conclusion below, I do not need to determine exactly what the clauses mean. Mr. Zmyslowski says these terms are unconscionable and contrary to public policy. He also denies agreeing to those terms despite signing the contract.

12. The general rule in contract law is that if a person signs a contract, they are bound by its terms even if they did not read or understand the contract. However, different principles may apply when the clause at issue limits or excludes liability, as the terms at issue here. Specifically, a term limiting or excluding liability will only be enforceable if the other party takes reasonable steps to bring it to the signor's attention, either before or at the time the parties entered into the contract. A company cannot impose limitations or exclusions of liability after the parties have entered into a contract.¹
13. Mr. Zmyslowski provided a March 31, 2023 confirmation email from Style Moving that attached a copy of the standard form contract, but said Mr. Zmyslowski did not have to sign it until the movers showed up. The body of the email did not mention any limitations on Style Moving's liability for lost or damaged items. I was not able to determine when the parties entered into a contract based on this email alone, so I asked the parties for further evidence and submissions about the contract's formation. I also asked what notice, if any, Mr. Zmyslowski had about any limitations on Style Moving's liability before the confirmation email.
14. Mr. Zmyslowski provided a copy of emails between the parties from earlier on March 31, 2023. In those emails, Style Moving asked for details about the move and for a \$200 non-refundable deposit to confirm Mr. Zmyslowski's reservation. Mr. Zmyslowski says that Style Moving had given him a quote before these emails. I accept this evidence because the emails imply an earlier phone conversation. Mr. Zmyslowski accepted the quote by providing the requested details and paying the deposit. I find that at this point, there was a contract formed. It was only after

¹ *Apps v. Grouse Mountain Resorts Ltd.*, 2020 BCCA 78,

exchanging these emails, and Mr. Zmyslowski paying the \$200 deposit, that Style Moving sent the email attaching its standard form contract. Mr. Zmyslowski also said that no one ever told him about any exclusions of liability. Style Moving did not respond to Mr. Zmyslowski's evidence, so I accept this is true.

15. In short, Style Moving only provided notice of any exclusions of liability after the parties had formed a contract. Even then, all Style Moving did was attach its standard form contract while telling Mr. Zmyslowski he did not have to sign it yet. Instead, Style Moving said he would sign the contract when the movers were already at his home. At this point, Style Moving would have known Mr. Zmyslowski had no reasonable opportunity to review it or ask questions about it. Style Moving never drew his attention to the contract's onerous terms, which are buried in fine print and are so poorly drafted that it would take a sophisticated reader considerable time to understand what they might mean, if they are capable of being understood at all. For these reasons, I find that the exclusion of liability clauses were not part of the parties' original contract.
16. I considered whether the signed contract was an enforceable variation of the parties' original contract. The courts, and the CRT, will enforce contract variations even if there was nothing of value exchanged if doing so would protect the parties' legitimate expectations.² I find there is no enforceable contract variation. I agree with the BC Provincial Court decision *Belanger v. 2 Burley Men Moving Ltd.*, which involved a similar situation involving a customer suing a moving company. There, the court found that providing a customer with a contract limiting the moving company's liability after the contract's formation was not a renegotiation of the parties' business relationship, but instead an attempt to unilaterally impose a new term without discussion or consent.³

² *Rosas v. Toca*, 2018 BCCA 191.

³ 2021 BCPC 270.

17. For these reasons, I find that the exclusion clauses in Style Moving's standard form contract were not part of the parties' contract. Given this conclusion, I do not need to consider Mr. Zmyslowski's arguments about the enforceability of those clauses.
18. As Mr. Zmyslowski points out, moving companies are "bailees for reward". This means Style Moving must take reasonable care of Mr. Zmyslowski's possessions during the move. Style Moving also bears the burden to prove it took reasonable care. It provided no evidence of how the desk was damaged or how the bike was lost, so I find Style Moving failed to take reasonable care of these items and is liable for them.
19. Mr. Zmyslowski argues he should get both items full replacement value. However, under the legal concept called "betterment", the court (or the CRT) will reduce an award when ordering the full replacement cost would overcompensate the successful person. The underlying principle is that the applicant should not be put in a better position than they were in before the loss occurred. Applied here, if I awarded Mr. Zmyslowski the full replacement value of the two items, he would end up with a new desk and a new bike to replace a used desk and a used bike.
20. Mr. Zmyslowski claims \$750 for the desk. He provided an ad for a \$1,249 desk he says is similar to the one that was destroyed. Based on the photos of the desk, I find that Mr. Zmyslowski's desk was more basic than the one in the ad. I find that \$300 is appropriate compensation for the desk.
21. Mr. Zmyslowski claims \$3,899.99 for the bike. He provided photos of the bike Style Moving lost, but no evidence about its value. He did not explain why he provided an ad for a desk, which shows he understood the importance of proving his damages, but not the more valuable bike. I accept from the photos of the bike that it was a mountain bike in very good condition. It was not a commuter or entry-level bike. However, given the lack of evidence, I find I must be cautious in awarding damages. I find that \$1,000 is appropriate compensation.

22. The *Court Order Interest Act* applies to the CRT. Mr. Zmyslowski is entitled to pre-judgment interest from May 5, 2023, the day he notified Style Moving of the loss, to the date of this decision. This equals \$116.10.
23. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Mr. Zmyslowski was partially successful, so I find he is entitled to reimbursement of half of his \$175 in CRT fees, which is \$87.50. He did not claim any dispute-related expenses. Style Moving did not claim any dispute-related expenses or pay any CRT fees.

ORDERS

24. Within 30 days of this decision, I order Style Moving to pay Mr. Zmyslowski a total of \$1,503.60, broken down as follows:
- a. \$1,300 in damages,
 - b. \$116.10 in pre-judgment interest, and
 - c. \$87.50 in CRT fees.
25. Mr. Zmyslowski is entitled to post-judgment interest under the *Court Order Interest Act*.
26. 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.

Eric Regehr, Vice Chair

