



# Civil Resolution Tribunal

Date Issued: May 13, 2025

File: SC-2024-002865

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kozminchuk v. 1145553 B.C. Ltd. (dba Couch Haus)*, 2025 BCCRT 606

B E T W E E N :

NADIA JACQUELINE KOZMINCHUK

**APPLICANT**

A N D :

1145553 B.C. LTD. (doing business as COUCH HAUS)

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Deanna Rivers

## **INTRODUCTION**

1. This is a dispute about the quality of a couch. The applicant, Nadia Jacqueline Kozminchuk, says the couch she bought from 1145553 B.C. Ltd (which does business as Couch Haus) was not the quality she expected. She claims a refund of \$2,853.20. The applicant represents herself.
2. Couch Haus says the couch's issues are from use. It also says the couch is past the warranty period. Couch Haus' director represents it.

## **JURISDICTION AND PROCEDURE**

3. The Civil Resolution Tribunal (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. These are the CRT's formal written reasons.
4. 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. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find I am properly able to assess and weigh the documentary evidence and submissions before me.
5. 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.

### ***Preliminary Issue***

6. The applicant's evidence included documents of other people's experience with Couch Haus, and online reviews. This evidence does not prove anything in relation to the specific couch in this dispute. I find the evidence is also unreliable, because

its accuracy or authenticity is not proved. As I find this evidence is not relevant or reliable, I have not considered it in coming to my decision.

## **ISSUE**

7. The issue in this dispute is whether the applicant is entitled to a refund of \$2,853.20, or some other amount, for the couch.

## **EVIDENCE AND ANALYSIS**

8. The applicant in a civil proceeding must prove their claim on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision.
9. The parties agree that in October 2021, the applicant ordered a modular couch from Couch Haus. The couch was delivered the week of March 21, 2022.
10. The applicant says that she was immediately surprised at the difference in the couch's quality from the showroom couch's quality. She says the couch material was thin, the modular pieces did not fit together, the cushions were too big and slipped forward to leave a gap on the backrest, and there was a chemical smell.
11. She asks for a refund of half the cost of the couch, or \$2,853.20.
12. Couch Haus says although the couch was delivered in March 2022, the applicant did not make a complaint until March 2024. It says the couch had a 1-year warranty, and the applicant's complaint was outside the warranty period. It also says that cushion comfort and seating are not covered under the warranty unless there is a manufacturing defect. Finally, it says that the applicant's complaints appear to come from use of the couch, and not a manufacturing defect.
13. I find the applicant is claiming a breach of contract or breach of warranty. However, neither party provided a copy of the contract for the couch's purchase. While Couch

Haus says the couch had a 1-year warranty, neither party provided a copy of the warranty.

14. Without any evidence in support, I find the applicant has not proved that Couch Haus breached the warranty for the couch.
15. I next consider the implied warranty in the *Sale of Goods Act* (SGA). As Couch Haus is in the business of selling couches, I find SGA section 18 applies.
16. SGA section 18(a) says that goods must be reasonably fit for their express or implied purpose. The applicant does not claim she was not able to use the couch as a couch or that she bought it for some other purpose. Photographs in evidence show it has been used in the applicant's home. So, I do not consider that section further.
17. SGA section 18(b) says that goods must be of merchantable quality, but there is no implied condition about defects that a buyer's examination ought to have revealed. Ms. Kozminchuk was not able to examine the couch prior to delivery. SGA section 38 allows buyers a reasonable opportunity to examine an item to determine whether it matches the contract. For a piece of furniture, such as a couch, I find a reasonable opportunity includes enough time to unbox and position the furniture. The applicant emailed Couch Haus on April 22, 2022, one month following the delivery, with a photograph of the couch in her home. Although she had the couch for a month, she did not complain about the couch's quality, that the modular pieces did not fit together, that the cushions were too big or slipped forward, or that there was a chemical smell. So, I find SGA section 18(b) does not apply.
18. SGA section 18(c) says that the goods must be durable for a reasonable period in normal use. A number of previous CRT decisions have considered SGA section 18(c) in connection with furniture. Although previous CRT decisions are not binding on me, I find them helpful. Those decisions have found that a reasonable period of durability for a couch is more than 2 months,<sup>1</sup> or longer than "a few months."<sup>2</sup> In

*Mayahi v. 0965658 B.C. Ltd.*<sup>3</sup> the CRT found that a couch with problems after 2 years would still have been reasonably durable.

19. I find that the couch was reasonably durable with normal use. There is no evidence that the applicant complained of any deficiency in the couch until March 2024, almost 2 years after delivery. Further, I find that cosmetic flaws after 2 years, even if proved, do not show a lack of durability for a reasonable period.

20. I dismiss the applicant's claim for breach of warranty under the SGA.

### ***Fees and Dispute-related Expenses***

21. 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. As the applicant was not successful, I dismiss her claim for reimbursement of CRT fees. Couch Haus did not pay any CRT fees. Neither party claimed any dispute-related expenses.

## **ORDER**

22. I dismiss the applicant's claims.

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Deanna Rivers, Tribunal Member

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<sup>1</sup> *Anadarko v. Steal the Deal Liquidators Ltd.*, 2022 BCCRT 1117 and *Potyka v. Future Furniture Ltd.*, 2022 BCCRT 660.

<sup>2</sup> *Shevchenko v. J.R. Furniture Place Ltd.*, 2018 BCCRT 606.

<sup>3</sup> *Mayahi v. 0965658 B.C. Ltd. (dba Aldergrove Furniture Warehouse)*, 2020 BCCRT 764.