



Civil Resolution Tribunal

Date Issued: July 28, 2025

File: SC-2024-000360

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Li v. Rusty's Auto Towing Ltd.*, 2025 BCCRT 1050

B E T W E E N :

WILLIAM LI

APPLICANT

A N D :

RUSTY'S AUTO TOWING LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Maria Montgomery

INTRODUCTION

1. This dispute is about alleged property damage during a tow service. The respondent, Rusty's Auto Towing Ltd., towed a vehicle owned by the applicant, William Li. Mr. Li says Rusty's Towing damaged his car during the tow service. He claims \$1,500 in related damages.

2. Rusty's Towing denies that it damaged Mr. Li's car.
3. Mr. Li is represented by a friend who is not a lawyer. Rusty's Towing is represented by an authorized employee.

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 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.
5. The CRT conducts most hearings by written submissions, but has discretion to decide the hearing's format, including by telephone or videoconference. No party requested an oral hearing, and I find I am able to make a decision on the written record before me. So, I decided to hear this dispute through written submissions.
6. Section 42 of the CRTA 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.

ISSUE

7. The issue is whether Rusty's Towing is responsible for damage to Mr. Li's car, and if so, what damages are appropriate.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, Mr. Li, 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.

9. On December 13, 2023, Rusty's Towing towed Mr. Li's vehicle. Mr. Li says that when he picked it up from Rusty's Towing's parking lot, the vehicle's passenger side was newly damaged. Specifically, the brakes, wheel stud and tires were damaged, as well as paint and body damage. Mr. Li provided photos that he says he took in Rusty's Towing's parking lot. The photo shows Mr. Li's vehicle with horizontal white marks to the passenger side door. Some of the marks continue onto the back fender. Another photo shows blue and white marks on the passenger side front corner. Mr. Li did not provide any photos of damaged brakes, wheel stud, or tires. An invoice in evidence for replacement of brakes, wheel stud, and tires did not reference any damage. So, I find it unproven that Mr. Li's vehicle bore any damage to its brakes, wheel stud, or tires.
10. Mr. Li paid \$1,595.86 to have his vehicle repaired on January 2, 2024. In his Dispute Notice, Mr. Li claimed \$1,500 for the cost of repairs. In his submissions, he increased this to \$1,595.86. However, given my conclusions below, nothing turns on the higher amount.
11. Mr. Li says that Rusty's Towing was negligent in towing his vehicle. In *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27, the court laid out the test to prove negligence. Following this test, Mr. Li must show 1) Rusty's Towing owed him a duty of care, 2) it breached the applicable standard of care, 3) he suffered reasonably foreseeable damage, and 4) Rusty's Towing's breach caused the damage. I find that as a contractor providing a tow service, Rusty's Towing owed Mr. Li a duty of care to avoid causing damage while towing his vehicle. For the below reasons, I find it unproven that Rusty's Towing breached the standard of care.
12. Mr. Li says the damage was not present before the vehicle was towed and relies on photos taken by a bylaw officer before Rusty's Towing arrived. These 4 photos provided by Rusty's Towing show the white marks on the front corner of the

passenger side, however, the passenger side beyond the corner is not visible. As the photos do not capture the passenger side of the vehicle, they do not reveal if the passenger side was damaged. I find the photos do not prove that the vehicle was undamaged before the tow.

13. Mr. Li says that Rusty's Towing failed to provide the bylaw officer's photos of the passenger side of the vehicle and so I should find an adverse inference against Rusty's Towing. When a party does not provide relevant evidence with no explanation, the CRT may make an adverse inference. An adverse inference is when the CRT assumes the party did not provide the relevant evidence because it either does not exist, or it would have damaged the party's case. However, there is no indication that the bylaw officer took any photos of the passenger side or that Rusty's Towing withheld any photos. Mr. Li did not explain why he could not acquire the photos directly from the bylaw officer. Further, as Mr. Li only raised this issue in reply submissions, Rusty's Towing did not have an opportunity to respond to it. So, I find that an adverse inference against Rusty's Towing is not appropriate here.
14. Mr. Li says that as Rusty's pre-towing inspection report did not note the passenger side damage, this means the vehicle was damaged during the tow service. Mr. Li provided an invoice from Rusty's Towing. The back of the invoice has a space to record vehicle damage and says to mark and describe vehicle damage, however, no vehicle damage is noted. Rusty's Towing says that its practice is not to note damage on the invoice but to take photos of all four sides. It provided 11 photos of the vehicle. I find it likely that, given the ease and accuracy of recording vehicle damage by taking photos with a smart phone, Rusty's Towing's practice is to take photos of the vehicle, rather than record any damage on the back of the invoice. I find that the unmarked invoice does not prove that the vehicle acquired damage during the tow service.
15. Rusty's Towing's photos show the same damage noted above on the passenger side among other minor damage. Mr. Li says the photos provided by Rusty's Towing show the damage because it took the photos after the tow service.

However, in all of Rusty's Towing's photos, Mr. Li's vehicle is at the same location as captured by the bylaw officer's photos. So, I find the photos were taken before the vehicle was moved.

16. I note that in some photos, Mr. Li's front tires are on the tow equipment. Mr. Li does not provide an explanation for how the tow service could have damaged the vehicle. I find it unlikely that simply placing the front side of Mr. Li's vehicle onto the tow equipment would cause damage to the passenger side.
17. Mr. Li says that Rusty's Towing failed to exercise care in towing his vehicle and that damage to the vehicle's tires are typical of towing damage. However, none of the above photos show damage to the vehicle's tires. As noted above, Mr. Li does not explain how the tow service could have caused the damage. Nor does he provide any documentary evidence explaining what damage is typically caused by a negligent tow service.
18. I find there was nothing obviously negligent about Rusty's Towing's service. I find whether Rusty's Towing was negligent is a matter requiring technical knowledge outside the experience of the ordinary person. In such cases, according to the court in *Bergen v. Guliker*, 2015 BCCA 283, expert evidence is required. However, Mr. Li does not provide any expert evidence.
19. Given the above, I find Mr. Li has not proven that Rusty's Towing was negligent in towing his vehicle and I dismiss his claim.
20. I note that Mr. Li has not proven his claimed damages in any event. Mr. Li provided a January 2, 2024, invoice from an auto repair shop for replacement of brake pads, oil filter, wheel stud, and fluid top up. As I noted above, there is no indication that Mr. Li's vehicle suffered any damage to its tires or brakes. Mr. Li says he has not yet repaired the marks on the passenger side but he does not provide a quote or estimate of the cost.
21. 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. As Mr. Li

was unsuccessful, I dismiss his claim for reimbursement of tribunal fees. Rusty's Towing did not pay any tribunal fees or claim any dispute-related expenses.

ORDER

22. I dismiss Mr. Li's claims.

Maria Montgomery, Tribunal Member