



Civil Resolution Tribunal

Date Issued: September 16, 2025

File: SC-2024-001440

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hamilton v. ICBC*, 2025 BCCRT 1290

B E T W E E N :

JOHN HAMILTON

APPLICANT

A N D :

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. This dispute is about an insurance deductible refund.
2. On July 14, 2023, the applicant, John Hamilton, was in an accident with a parked food delivery truck. Mr. Hamilton and the truck's operator were insured by the Insurance Corporation of British Columbia (ICBC).

3. The delivery truck was parked in a loading zone in a parking lot in Vancouver, British Columbia. Mr. Hamilton and the truck driver dispute how the accident occurred. Mr. Hamilton says the truck driver lowered the rear loading deck down onto his SUV. The truck driver says the loading deck was already open when Mr. Hamilton drove his vehicle into the stationary loading deck.
4. ICBC initially found the truck driver 100% responsible for the accident. It later reviewed its decision and found Mr. Hamilton responsible. Mr. Hamilton disagrees with ICBC's reassessment and seeks \$500 for a refund of his insurance deductible. In his submissions, Mr. Hamilton also asks me to change ICBC's liability assessment.
5. ICBC says its investigation was proper and its decision reasonable, and that Mr. Hamilton is responsible for the damage to his vehicle. ICBC also says the CRT has no jurisdiction to order ICBC to change its liability determination.
6. Mr. Hamilton represents himself. An employee represents ICBC.
7. For the reasons that follow, I dismiss Mr. Hamilton's claims.

JURISDICTION AND PROCEDURE

8. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. CRTA section 2 says 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.
9. 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. I find that an oral hearing is not necessary.

10. Under CRTA section 10, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues.
11. 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.
12. Under CRTA section 48(1), the CRT may make an order on terms and conditions it considers appropriate.

Preliminary Issue – Does the CRT have authority to order ICBC to change its liability assessment?

13. Mr. Hamilton requests an order that ICBC change its liability assessment. ICBC says that since Mr. Hamilton brought this action within the CRT's small claims jurisdiction as opposed to its accident benefits jurisdiction, the CRT does not have jurisdiction to order ICBC to change its liability assessment.
14. Although ICBC does not specifically say this, I infer that ICBC argues this part of Mr. Hamilton's claim is for injunctive relief. Both injunctive and declaratory relief are outside of the CRT's small claims jurisdiction, except where permitted by CRTA section 118. There are no relevant provisions in CRTA section 118 that would permit me to order a change of ICBC's liability assessment. So, I find I do not have jurisdiction to order ICBC to change its liability assessment.
15. Under CRTA section 10, I refuse to resolve this part of Mr. Hamilton's claim.

ISSUE

16. The issue in this dispute is whether Mr. Hamilton is entitled to a refund of his insurance deductible.

EVIDENCE AND ANALYSIS

17. In a civil proceeding like this one, Mr. Hamilton, as the applicant, must prove his 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.
18. The *Insurance Vehicle Act* (IVA) requires ICBC to indemnify an insured based on the insured's degree of fault. I find this requires ICBC to correctly determine responsibility. IVA section 174 also forms part of ICBC's compulsory insurance contract under section 1.1 of the *Insurance Vehicle Regulation*. So, I find that Mr. Hamilton is claiming that ICBC breached the parties' contract by incorrectly determining responsibility for the accident.
19. As I stated above, I am presented with two different versions of how the accident occurred. Mr. Hamilton says he attempted to drive past the parked truck. While he was driving, he says the truck driver lowered the loading deck onto his car. On the other hand, the truck driver told ICBC that they had been parked for 15 minutes and had already extended the loading deck to complete one food delivery. They said when the collision happened, they were in the truck preparing to load the second food delivery onto the loading deck.
20. On July 14, 2023, Mr. Hamilton reported the accident to ICBC. On July 17, 2023, the truck driver reported the accident. ICBC obtained statements and photo evidence from both parties. There was no CCTV footage at the parking lot or dash camera footage from Mr. Hamilton's vehicle. Since it did not have objective evidence of the accident, ICBC requested a material damage opinion from an internal material damage estimator.
21. On August 28, 2023, the material damage estimator reviewed the photos and concluded, based on photo evidence of damage to the sunroof and left side of the windshield, that an impact from above likely caused the damage to Mr. Hamilton's vehicle, such as from the loading deck being lowered onto Mr. Hamilton's vehicle.

22. Based on this opinion, ICBC initially decided that the truck driver was responsible for the accident and told Mr. Hamilton so. The truck driver disputed ICBC's determination, leading ICBC to ultimately revise its liability assessment, finding that Mr. Hamilton was 100% liable for the accident.
23. Mr. Hamilton then disputed ICBC's new liability determination. On September 15, 2023, the material damage manager added a file note in which they reviewed the photos and determined that the damage appearing from the front to the back of the windshield was more consistent with Mr. Hamilton driving into the lift gate while it was stationary.
24. Based on the material damage manager's determination, ICBC told Mr. Hamilton that it had changed its decision and determined that Mr. Hamilton was 100% liable for driving forward into the open lift gate. Based on this decision, ICBC required Mr. Hamilton to pay the full deductible of \$500 for the repairs to his vehicle.

Did ICBC correctly determine liability?

25. ICBC found Mr. Hamilton liable for a breach of *Motor Vehicle Act* section 144, which says that a person must not operate a vehicle without due care and attention, without due consideration for other people, or at an excessive speed for the road, traffic, or visibility conditions.
26. Mr. Hamilton said the delivery truck was illegally parked and was too large for the available space. Mr. Hamilton also said that there were no safety cones placed around the truck to warn other parking lot users. Mr. Hamilton argues that it was not reasonable or appropriate for ICBC to change its liability assessment as quickly as it did on August 30, 2023. I find that none of these objections answer the question of whether ICBC correctly determined liability.
27. ICBC provided copies of the photos on which it relied as well as photos taken at an authorized collision repair facility. ICBC also asked the truck driver, or its owner, to take their own photos showing the truck's loading deck height. In addition to those photos, they provided a video of the loading deck opening sequence. The material

damage manager relied on this video, along with the photos, to reach their conclusion about liability.

28. The video shows that the loading deck opens out in three parts, with the deck opening upward from the bottom, before extending out to its fully open length. The video also shows that the loading deck is operated from the outside of the truck, and not the inside of the truck. Mr. Hamilton did not say whether he saw the truck driver outside of the truck at the time of the accident. Based on my review of the video, I find that the loading deck's opening sequence shows that the loading deck opens outward and upward rather than downward.
29. The material damage manager relied on the video evidence to conclude that the damage to Mr. Hamilton's vehicle moved from front to back and started at a height close to the normal height of the loading deck when open. I find that the photos of the truck loading deck show that its loading height when fully extended is 44 inches high. The photos of the damage to Mr. Hamilton's vehicle show damage starting at the windshield at approximately 51 inches high and moving backward up the windshield from the lowest point.
30. Based on the photos and video evidence, I find that the opening sequence of the loading deck and the visible damage to Mr. Hamilton's vehicle are more consistent with the loading deck being extended and with Mr. Hamilton driving into the loading deck than with the loading deck being lowered onto Mr. Hamilton's vehicle. For these reasons, I find Mr. Hamilton has not proved that ICBC incorrectly determined that Mr. Hamilton was liable for this accident. So, I dismiss Mr. Hamilton's claim for a refund of his deductible.
31. 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. Neither party paid any CRT fees or claimed dispute-related expenses.

ORDERS

32. I refuse to resolve Mr. Hamilton's request to change ICBC's liability assessment.

33. I dismiss Mr. Hamilton's remaining claim and this dispute.

Mark Henderson, Tribunal Member