



Civil Resolution Tribunal

Date Issued: September 22, 2025

File: SC-2023-012758

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Walker v. ICBC*, 2025 BCCRT 1321

B E T W E E N :

SHAAN WALKER

APPLICANT

A N D :

INSURANCE CORPORATION OF BRITISH COLUMBIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alissa Reynolds

INTRODUCTION

1. This dispute is about an insurance deductible.
2. On September 16, 2021, in Burnaby, the applicant, Shaan Walker, was in a motor vehicle accident with another vehicle, driven by AR. Mr. Walker made a claim for vehicle repairs through the respondent insurer, Insurance Corporation of British

Columbia (ICBC). ICBC initially determined Mr. Walker was 100% at fault for the accident. Later, ICBC changed its fault determination against Mr. Walker to 75% and charged him a \$750 deductible to access his collision coverage.

3. Mr. Walker says ICBC's incorrectly determined fault for the accident, and he claims for return of his deductible. ICBC says correctly assessed fault.
4. Mr. Walker is represented by his father. An authorized employee represents ICBC.
5. For the reasons that follow, I dismiss Mr. Walker's claim.

JURISDICTION AND PROCEDURE

6. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims under *Civil Resolution Tribunal Act* (CRTA) section 118. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. These are the CRT's formal written reasons.
7. CRT staff noted that Mr. Walker requested an oral hearing but did not provide reasons. He did not raise that request again in his submissions. The CRT conducts most hearings by written submissions, but it has discretion to decide the hearing's format, including by telephone or videoconference. Sometimes oral hearings can be helpful to resolve conflicts in the evidence or assess credibility. The evidence in this case is not materially in dispute and there is no issue about credibility. I find that I can properly assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT's mandate that includes proportionality and timeliness, 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, even if the information would not be admissible in court. Under CRTA section 48(1), the CRT may make an order on terms and conditions it considers appropriate.

ISSUES

9. Must ICBC refund Mr. Walker's \$750 deductible?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Mr. Walker must prove his claim on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to that which I find relevant to provide context for my decision.
11. ICBC says this dispute is only about accident responsibility and that I cannot order ICBC to refund Mr. Walker's deductible because it is injunctive relief. Injunctive relief is ordering a party to do or stop doing something. I agree that, with certain limited exceptions that do not apply here, the CRT cannot order injunctive relief under its small claims jurisdiction. However, for the reasons below, I find Mr. Walker's claim does not require such an order.
12. In *Beaulieu v. ICBC*, 2025 BCCRT 1257, another CRT member found that the *Insurance (Vehicle) Act* and ICBC's compulsory insurance contract requires ICBC to correctly determine fault for an accident. While not binding on me, I find this reasoning persuasive and apply it here. So, I find that Mr. Walker is claiming that ICBC's fault determination was incorrect and breached the parties' contract, and he seeks return of his \$750 deductible as damages for that breach.
13. *Bhasin v. Hrynew*, 2014 SCC 71, says ICBC owes Mr. Walker a duty of good faith. That means ICBC must act fairly in how it investigates and assesses his claim. ICBC is not expected to investigate the claim with a detective's skill and forensic proficiency. Rather, ICBC's investigation and assessment must be reasonably diligent, fair, appropriately skilled, thorough, and objective. See: *MacDonald v. Insurance Corporation of British Columbia*, 2012 BCSC 283.
14. To succeed in his claim, Mr. Walker must prove that ICBC breached its statutory obligations or its insurance contract. So, the question is whether ICBC correctly

determined that Mr. Walker was 75% at fault for the accident. For the following reasons, I find Mr. Walker has not proven that ICBC's fault determination was incorrect.

15. The parties agree that before the accident, Mr. Walker's vehicle was parked on the north side of Fulwell Street, a residential street that runs east/west with no centre line. At about 7:45 am, Mr. Walker was trying to pull out of his parked position to head west on Fulwell Street. AR was westbound on Fulwell Street when his vehicle struck Mr. Walker's vehicle.
16. Mr. Walker provided an affidavit sworn January 9, 2025, and his statement to ICBC dated October 18, 2021. In both, he says that before moving his vehicle from its parked position, he checked his mirrors and put on his signal. He does not say whether he shoulder checked. ICBC's loss detail notes show that Mr. Walker's father reported the accident and said that Mr. Walker shoulder checked. This note is double hearsay, so I find it is unreliable. Mr. Walker says he did not see any vehicles approaching, so he put on his signal light and moved his vehicle slightly to the left. He says at that moment, he saw a vehicle coming at fast speed, so he stopped. He says the other vehicle continued and collided with his vehicle.
17. AR's statement to ICBC dated October 8, 2021, says he has lived on Fulwell Street for many years. The street is only one block long and allows traffic to travel in both directions. He says when cars are parked on both sides of Fulwell Street, like there was at the time of the accident, it is only wide enough for one vehicle at a time. He left his house and was travelling west, intending to turn left at the stop sign. He said when he was getting close to the stop sign, he heard an unknown noise. He stopped at the stop sign, got out, and saw damage along his car's passenger side door. He then looked back and saw Mr. Walker's vehicle pulled out from the curb. He did not notice the other vehicle before the impact.
18. ICBC says there were no independent witnesses or video footage, and police did not attend. Mr. Walker did not provide any evidence saying otherwise.

19. By letter dated October 19, 2021, ICBC told Mr. Walker he was 100% at fault for the accident due to *Motor Vehicle Act* (MVA) section 169. Section 169 says that a driver must not move from a stopped position unless they can do so reasonably safely and they signal.
20. Mr. Walker disputed ICBC's fault determination through the Claims Assessment Review (CAR) process. A CAR arbiter assessed 75% fault against Mr. Walker for not yielding the right of way to AR. The arbiter assessed 25% against AR for not keeping a proper look out, because he didn't see Mr. Walker pulling out. ICBC accepted the arbiter's fault assessment and changed its determination.
21. ICBC says it correctly determined fault. Mr. Walker says that ICBC's fault determination was incorrect, and AR was 100% at fault for the accident. In the alternative, Mr. Walker says that he was less than 75% at fault for the accident.
22. For the reasons that follow, I find Mr. Walker's evidence shows he is at least partly at fault for the accident. Mr. Walker admits that he saw AR when he started to pull out, so he had to stop his vehicle. I find this shows that AR was established in the roadway and was dominant driver, which means he had the right of way. The fact that Mr. Walker stopped shows that AR was an immediate hazard. Under MVA section 169, Mr. Walker could not move his parked vehicle when there was an immediate hazard, because he could not do so safely. So, I find Mr. Walker breached MVA section 169 and he is at least partly at fault for the accident.
23. I turn now to Mr. Walker's argument that he was less than 75% at fault. Mr. Walker says that AR is more at fault than assessed for two reasons. First, Mr. Walker alleges that AR was speeding or driving at an excessive speed for the road conditions, which is a breach of MVA section 144(1)(c). Mr. Walker provided no evidence that AR was speeding. He also does not give an estimate of AR's speed, other than it was "fast." AR does not mention his speed in his statement.
24. ICBC says Mr. Walker's submission about AR's speed requires expert evidence, which Mr. Walker did not provide. ICBC also says that even if a driver with the right

of way is excessively speeding, it does not mean they are at fault, unless the speed prevented them from taking reasonable steps to avoid the accident.

25. Mr. Walker says AR must have been speeding to cause almost \$5,000 in damage to Mr. Walker's vehicle. I infer Mr. Walker is saying this is common sense of which I can take judicial notice. I disagree. Estimating the speed of vehicles based on material damage sustained in an accident requires expert evidence, because it is outside ordinary experience. So, I agree with ICBC that Mr. Walker's position requires expert evidence to support it, which he did not provide. So, I conclude Mr. Walker has not proven that AR was speeding or breached MVA section 144(1)(c).
26. Second, Mr. Walker says AR was not keeping a proper look out, which is a breach of MVA section 144(1)(a). He relies on the CAR arbiter's finding that AR was not keeping a proper look out because AR said he did not see Mr. Walker's vehicle before the impact. The arbiter's finding is not binding on me. Again, ICBC says Mr. Walker's argument requires expert evidence that his vehicle was a hazard that AR should have seen and avoided. ICBC says the damage to AR's vehicle, which starts at the passenger side front wheel, shows that AR was already next to Mr. Walker when Mr. Walker pulled out from the curb.
27. ICBC submitted its material damage manager's report to support its position. I find that I am unable to accept this report as expert evidence. CRT rule 7 says that a party generally cannot act as their own expert because the party is not neutral. That said, I find that I can accept the report as a business record that forms part of ICBC's investigation and fault determination, and I consider it on that basis only.
28. I find that the evidence before me is inconclusive as to whether AR was keeping a proper look out. Without expert evidence on this issue, I cannot determine whether AR should have been able to see Mr. Walker pulling out, but failed to do so, or whether AR was already beside Mr. Walker when Mr. Walker pulled out.
29. If I assume that Mr. Walker is correct and AR should have been able to see Mr. Walker pulling out, then AR would be partly at fault. However, Mr. Walker has failed

to explain why he did not see AR before he pulled out, when AR was an immediate hazard. I find that is either because he did not shoulder check, or if he did, he did not see AR when he was there to be seen. Even if I accept Mr. Walker's submissions entirely, the most that can be said is that both Mr. Walker and AR failed to keep a proper look out. Because I have found that Mr. Walker failed to yield the right of way to AR, I find he bears the greater portion of liability and 75% is appropriate.

30. So, for those reasons, I find that Mr. Walker has not proven that ICBC's liability determination was incorrect, and I dismiss his claim.
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. I see no reason in this case not to follow that general rule. ICBC did not pay any fees and neither party claimed dispute-related expenses. I dismiss Mr. Walker's claim for CRT Fees.

ORDERS

32. I dismiss Mr. Walker's claim.

Alissa Reynolds, Tribunal Member