Civil Resolution Tribunal

Date Issued: April 2, 2024

File: SC-2023-002628

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kahlon v. Pack Rat Movers Inc.*, 2024 BCCRT 328

B E T W E E N :

GURDEEP KAHLON

APPLICANT

A N D :

PACK RAT MOVERS INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Kate Campbell

INTRODUCTION

1. The applicant, Gurdeep Kahlon, hired the respondent, Pack Rat Movers Inc., to move his personal belongings in March 2021. The applicant says the respondent broke his marble coffee table. The applicant claims $1,736 for the table.

2. The respondent admits the table is broken, and does not deny that its employees broke it during the move. However, the respondent says the applicant signed a contract agreeing to pay a $2,500 deductible on all claims. The respondent says the applicant refused to pay the deductible, so the respondent is not responsible for the cost of the table.

3. The applicant is self-represented in this dispute. The respondent is represented by its owner.

4. For the reasons set out below, I dismiss the applicant's claim.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). 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.

6. 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. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.

7. 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.

ISSUE

8. Is the applicant entitled to $1,736 for the broken coffee table?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove his claims on a balance of probabilities. I have read the parties' submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.

10. The respondent did not provide evidence in this dispute, although it had the opportunity to do so.

11. The applicant provided a photo showing the coffee table before it was damaged, and a purchase invoice showing he paid $1,736 for it in 2019. As noted above, the respondent does not deny that its employees broke the table. This is noted on the signed moving contract.

12. The applicant also provided an email from a repair company stating that it would cost more than the table's value to replace the broken marble.

13. For these reasons, I find that the respondent broke the table, and that its replacement value is $1,736.

14. The respondent relies on the written contract the applicant signed at the time of the move. The relevant terms are as follows:

    - Page 1 – All insurance claims have a $2500 deductible applicable to clients.

    - Page 2 – INSURANCE: The [respondent] shall self-insure the customer for any loss or damages. The maximum limitation of the insurance shall be 50% of the total amount charged for the moving.

    - Page 2 – SPECIFIC LIABILITY EXEMPTION: The [respondent] shall be limited in its liability of the move, and specifically shall not be liable for…furniture designs of unique or fragile nature such as glass on glass, glass on metal, glass legs and etc.

15. The applicant admits that he signed the contract, and ticked the box next to the term about the $2500 deductible. However, he says the contract is vague and poorly worded. He argues that the term “All insurance claims have a $2500 deductible applicable to clients” is not clear or “sufficiently defined”. He cites the legal principle of *contra proferentem* (against the offeror), which says that any ambiguity must be resolved against the party who drafted the contract. See *Horne Coupar v. Velletta & Company*, 2010 BCSC 483.

16. I find the contract does apply, and I find its terms are not ambiguous. The contract defines coverage for all loss or damage as “insurance”, and clearly states on page 1 that there will be a $2,500 deductible for all insurance claims. Since this is more than the table’s value, essentially the table was not insured for breakage.

17. Also, even if the applicant were entitled to compensation for the table, under the terms set out above, that coverage would be limited to 50% of the cost of the move. The contract shows the move cost a total of $609.52.

18. The applicant argues that the contract’s terms limiting liability for damage should not apply here, since the table was broken due to the gross negligence and misconduct of the respondent’s employees. Specifically, the applicant says he informed the movers that the table was very expensive, heavy, and could not be handled by 2 people alone. The applicant says he gave the movers detailed instructions about how to handle it, which involved removing the top marble piece and wrapping it in a protective blanket. The applicant says the movers disregarded these instructions.

19. The applicant argues that since the contract contains various specific exemptions, but does not specifically exempt the respondent from liability due to negligence, the respondent is therefore liable for damage caused by negligence.

20. The respondent does not deny that its employees broke the table through negligence, so I accept that as accurate. However, the paragraph “SPECIFIC LIABILITY EXEMPTION”, as set out above, clearly states that the respondent is not liable for damage to “furniture designs of unique or fragile nature such as glass on glass, glass

on metal, glass legs and etc." Based on the photos in evidence and the applicant's description of it in his submissions, I find the marble coffee table was a furniture design of a unique or fragile nature. So, I find the respondent was specifically exempted from liability for damage to the table by the specific liability exemption term in the contract.

21. I find the fact that the contract does not mention negligence is not determinative, since there is another specific term in the contract that covers unique and fragile furniture items.

22. Based on the terms of the signed contract, I find the respondent is not liable for the broken coffee table. I dismiss the applicant's claim, and this dispute.

23. Under CRTA section 49 and the 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 unsuccessful, I dismiss his claim for reimbursement of CRT fees. The respondent is the successful party. It paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

ORDER

24. I dismiss the applicant's claims and this dispute.

Kate Campbell, Tribunal Member