



Civil Resolution Tribunal

Date Issued: April 16, 2024

File: SC-2023-005551

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sheikholeslami v. Maple Living Trading Ltd.*, 2024 BCCRT 360

B E T W E E N :

SEPEHR SHEIKHOESLAMI

APPLICANT

A N D :

MAPLE LIVING TRADING LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. Sepehr Sheikholeslami purchased 6 dining chairs from Maple Living Trading Ltd., which does business as Moe's Home Coquitlam (MHC). Mr. Sheikholeslami says the chairs are defective because they stain easily. He asks for an order that MHC accept a return of the chairs and fully refund him \$3,700.28, or that he keep the chairs but receive a partial refund so that he may reupholster them himself.

2. MHC says that the chairs are not defective, and that the stains are from clothing dye colour transfer, which is not covered under by its warranty. MHC denies owing Mr. Sheikholeslami any refund.
3. Mr. Sheikholeslami represents himself. MHC is represented by an employee.
4. For the following reasons, I dismiss Mr. Sheikholeslami's claims.

JURISDICTION AND PROCEDURE

5. 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). CRTA section 2 says that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
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. The issue in this dispute is whether Mr. Sheikholeslami's chairs are defective, and if so, whether MHC must refund him for them.

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mr. Sheikholeslami must prove his claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. On March 13, 2022, Mr. Sheikholeslami purchased six white dining chairs from MHC for \$3,700.28, including delivery. MHC delivered the chairs to Mr. Sheikholeslami on August 26, 2022. The parties made submissions about Mr. Sheikholeslami's general dissatisfaction with the delivery service. However, Mr. Sheikholeslami did not request a specific remedy for this and I find it is not relevant to the alleged issues with the chairs, so I have not addressed these arguments further.
11. On August 28, 2022, Mr. Sheikholeslami emailed MHC and complained that four of the chairs were stained. Mr. Sheikholeslami says that he spoke with an MHC representative by telephone after this email, and that they told him that the fabric was likely stained because it was from the end of the roll. Mr. Sheikholeslami says that the representative told him that the problem would not happen again.
12. On August 31, 2022, Mr. Sheikholeslami emailed MHC again and said that he was able to clean one of the chairs, but that he would like three of them to be replaced. MHC undisputedly ordered three replacement chairs for Mr. Sheikholeslami, which were delivered on October 14, 2022. MHC provided photographs of the replacement chairs before they were delivered to Mr. Sheikholeslami, which show no staining or discolouration.
13. On December 19, 2022, Mr. Sheikholeslami emailed MHC again and said that one of the replacement chairs had also become stained. He said he had unsuccessfully tried to clean the stain, and asked whether MHC could fix the issue or whether he could return the chairs. The parties exchanged emails, with MHC ultimately declining to accept the return.

14. Emails in evidence show that Mr. Sheikholeslami also contacted MHC's head office, which offered to order one replacement chair for him. However, Mr. Sheikholeslami undisputedly did not accept the replacement chair, because he was concerned that the replacement chair would become stained as well once someone sat on it.
15. Mr. Sheikholeslami provided photographs of the stained chair which led to his December 19, 2022 complaint, and photographs of two other chairs, which he says were taken in January 2023. MHC says that the discolouration in these photographs is clearly dye transfer, as the seats show a defined imprint of a person's behind. I agree. It is clear from the photographs that the discolouration is the result of someone sitting on the chairs. Mr. Sheikholeslami does not particularly dispute this, but says that the chairs should not stain so easily when they are sat on.
16. Both parties also provided photographs of the discolouration that led to Mr. Sheikholeslami's original complaint in August 2022. The discolouration in these photographs is less defined, and is not clearly dye transfer from a person's clothing. This is relevant because, as noted above, Mr. Sheikholeslami says that MHC's representative told him that the original stains were because the fabric was from the end of the roll, and that they would not happen again. MHC does not dispute that its representative said this. However, because the later stains do not appear to be the same as the original ones, I find MHC's representative's statement does not apply to the later stains.
17. In short, Mr. Sheikholeslami says that the chairs are defective, and that MHC has breached its warranty. He also argues that the chairs are not of merchantable quality, reasonably fit for the purpose for which they were intended, or durable for a reasonable period of time, as required by the *Sale of Goods Act* (SGA).
18. I note the parties each provided evidence and arguments about Mr. Sheikholeslami's complaint to the Better Business Bureau (BBB) about the chairs, and another BBB complaint involving MHC. I place no weight on this evidence. The parties disagree about whether the BBB found in MHC's favour, but in any event, the BBB's response to Mr. Sheikholeslami's complaint is not binding on me. The other complaint in

evidence is not about the same chairs, and does not assist in determining whether MHC breached its warranty or the SGA in this particular case. So, I have not considered the parties' evidence about the BBB further.

Warranty

19. MHC provided a copy of its warranty in evidence. The warranty says that it covers defects in materials and construction for one year from the delivery date. It does not cover normal deterioration due to wear and tear.
20. MHC says that the stains are the result of clothing dye transfer, and are not a manufacturing defect, so they are not covered by its warranty.
21. Mr. Sheikholeslami says that the chairs are defective. He says he has other white furniture in his home that does not stain or discolour. He says that these issues did not only occur with blue jeans as MHC argues. He says that he can provide witness statements from his guests about the problems they witnessed with his chairs "if required". Parties are instructed by CRT staff to provide all relevant evidence during the evidence submission process. Given the CRT's mandate for speedy and efficient dispute resolution, I decline to ask Mr. Sheikholeslami for further evidence at this late stage.
22. The stains undisputedly occurred after people sat on the chairs, so I find there was no obvious defect when Mr. Sheikholeslami received them. I find the fact that Mr. Sheikholeslami has other white furniture that does not stain is not determinative. In the absence of an obvious defect, I find expert evidence is required because the chairs' fabric quality and stain resistance is a technical matter outside ordinary experience.¹
23. MHC provided a report from John Palliser, who says they have been a buyer in the furniture and home décor business for almost 20 years. They say that dye from clothing can be transferred to light-coloured fabrics. They say that they have

¹ *Bergen v. Guliker*, 2015 BCCA 283.

examined the photographs and that their opinion is that the discolouration is from clothing dye transfer, not from a manufacturing defect.

24. Mr. Sheikholeslami challenges this evidence, and says that John Palliser is likely an employee or friend of MHC's representative. John Palliser does not identify their relationship to MHC, and I find this argument speculative. However, I place limited weight on John Palliser's report in any event, because as noted, the parties generally agree that the discolouration is from clothing dye. The question is whether the chairs' susceptibility to this discolouration means that they are defective, which John Palliser does not particularly address.
25. However, Mr. Sheikholeslami has not provided expert evidence addressing this question either. In the absence of such evidence, I find he has not proven that the chairs are defective under MHC's warranty terms.

Sale of Goods Act

26. I turn to the SGA's application. Because MHC is in the business of selling furniture, the implied warranty provisions under the SGA apply to it. SGA section 56 says a consumer can sue a supplier (here, MHC) for damages for a breach of these implied warranties, even if the supplier was not the manufacturer.
27. First, SGA section 17(1) says that where goods are sold by description, there is an implied condition that the goods must correspond with the description. Mr. Sheikholeslami provided a screenshot from MHC's website, which describes the chairs as being "upholstered in soft, easy-to-clean fabric".
28. While Mr. Sheikholeslami says that he has tried to clean the chairs numerous times, he provided no evidence or further details about what methods or products he used. Emails in evidence show that he specifically refused MHC's offer to provide him with a cleaning solution, as he did not believe it would remove the discolouration. So, I find Mr. Sheikholeslami has not proven that the chairs do not correspond with MHC's description that they are easy to clean.

29. Next, SGA section 18(a) says that if a buyer makes it known to a seller that the goods are required for a particular purpose, there is an implied condition that the goods are reasonably fit for that purpose. There is no evidence before me that Mr. Sheikholeslami specifically made it known to MHC that he was looking for chairs which could not be stained by clothing. So, I find there is no evidence that MHC has breached this implied condition.
30. Under SGA section 18(b), where goods are purchased by description there is an implied condition that they will be of merchantable quality. The SGA does not define “merchantable quality”, and courts have held that it is not possible to formulate an all-purpose definition of the term. Rather, the concept of merchantability is flexible, and requires the goods to be of a quality reasonably expected, having regard to all the circumstances of the case.²
31. Similarly, SGA section 18(c) says there is an implied condition that goods will be durable for a reasonable period of time. Previous CRT decisions applying this provision in the context of furniture sales requires a consideration of the furniture’s age, nature of use, price, reasons for defects, and any express warranties.³ While previous CRT decisions are not binding on me, I find this reasoning persuasive and I apply it here.
32. Mr. Sheikholeslami undisputedly purchased the chairs new, and they were only a few months old when the stains appeared. The chairs were also fairly expensive, at over \$600 each. I accept Mr. Sheikholeslami’s submission that the chairs were used infrequently, when he had guests over. These factors all tend to favour a high standard of merchantable quality, and a longer period of time for which it is reasonable to expect the chairs to be durable. However, as discussed above, I find Mr. Sheikholeslami has not proven that the fact that the chairs show clothing dye means that they are defective. MHC made no express warranties about the chairs being stain-resistant. I find the discolouration is a cosmetic issue only, and the chairs

² *Clayton v. North Shore Driving School et al.*, 2017 BCPC 198 at paragraph 100.

³ See for example *Timmers v. Accidents@Home Furniture Inc.*, 2022 BCCRT 1230.

are still of merchantable quality and reasonably durable for their intended purpose of being sat on.

33. Overall, I find Mr. Sheikholeslami has not proven that MHC breached its warranty or the SGA. So, I dismiss Mr. Sheikholeslami's claim for a refund.

CRT FEES AND EXPENSES

34. 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. I see no reason in this case not to follow that general rule. Mr. Sheikholeslami was unsuccessful, so I dismiss his claim for CRT fees. Neither party claimed dispute-related expenses.

ORDER

35. I dismiss Mr. Sheikholeslami's claims and this dispute.

Alison Wake, Tribunal Member