



# Civil Resolution Tribunal

Date Issued: May 2, 2024

File: SC-2022-005742

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Laurin-Phelan v. Button*, 2024 BCCRT 419

B E T W E E N :

DEBORAH ELAINE LAURIN-PHELAN

**APPLICANT**

A N D :

TRACY LYNN BUTTON

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. This dispute is about truck impound fees and related expenses.
2. Deborah Elaine Laurin-Phelan says she purchased a truck from Tracy Lynn Button. Dr. Laurin-Phelan says her truck was impounded after Ms. Button used the truck as collateral on a trailer, and fell behind on her payments. Dr. Laurin-Phelan says she

incurred various costs to reclaim her truck. She collectively claims reimbursement of \$1,399.75 for impound fees, insurance while the truck was impounded, and various filing fees and dispute-related expenses.

3. Ms. Button says Dr. Laurin-Phelan's claims are false and she owes nothing. She says she was told by the "loan agency" that there would be no fees on the truck she sold to ZP, a third party. ZP is Dr. Laurin-Phelan's son.
4. The parties are each self-represented.

## **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). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
6. Section 39 of the CRTA 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. 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.
8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

## **ISSUE**

9. The issue in this dispute is whether Ms. Button is responsible to reimburse Dr. Laurin-Phelan any of the claimed \$1,399.75 for impound fees and related expenses.

## **EVIDENCE AND ANALYSIS**

10. As the applicant in this civil proceeding, Dr. Laurin-Phelan must prove her claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties' submissions and evidence but refer only to what I find necessary to explain my decision. Ms. Button provided a Dispute Response, but did not provide any further submissions or evidence despite being provided the opportunity to do so.
11. As noted, Dr. Laurin-Phelan says she purchased a truck from Ms. Button. She says Ms. Button had used the truck as collateral on a dump trailer. Dr. Laurin-Phelan says she did not know there was a lien on the truck when she purchased it, and says her truck was impounded after Ms. Button fell behind on her dump trailer payments. Dr. Laurin-Phelan says her son, ZP, found the dump trailer and reported it to the RCMP. Dr. Laurin-Phelan says the RCMP then called the bailiffs to notify them the trailer had been located. She says she had to pay the impound fee to reclaim her truck.
12. Although Ms. Button did not specifically dispute that the truck was repossessed, she denies Dr. Laurin-Phelan's claims as a whole. As noted, she says she sold the truck to ZP, and was advised by the "loan agency" that she "would have no fees toward the truck I sold".
13. Dr. Laurin-Phelan provided a receipt from a towing company that shows a truck was impounded between June 25, 2022, and June 1, 2022. The receipt was issued to Dr. Laurin-Phelan. So, I find the truck was impounded as Dr. Laurin-Phelan alleges. The receipt also listed the truck's "V.I.N.", which I find means vehicle identification number, but did not list the truck's registered owner.
14. The problem for Dr. Laurin-Phelan is that she did not provide any documentary evidence that shows the truck was impounded because Ms. Button used it as

collateral to purchase a dump trailer. There is no documentary evidence to confirm that a lien was registered against the truck at any time, or that the alleged lien was registered because Ms. Button used the truck as collateral and fell behind in her dump trailer payments. There is also no evidence from any bailiff or loan agency to show the reason why the truck was impounded. So, although I accept the truck was impounded, the documentary evidence does not show that Ms. Button was responsible for the truck being impounded as Dr. Laurin-Phelan alleges.

15. Further, it is unclear who owned the truck at the time it was impounded. Dr. Laurin-Phelan did not address Ms. Button's allegation that Ms. Button sold the truck to ZP. There are text messages from ZP in evidence about locating the dump trailer. However, there is no statement from ZP, and the documentary evidence does not show that Dr. Laurin-Phelan owned the truck or purchased the truck from Ms. Button.
16. Dr. Laurin-Phelan also says she filed an application in "small claims court" which I infer means the BC Provincial Court, but withdrew the application when the dump trailer was found. However, she provided no documentary evidence to support this allegation and did not provide further details of the application.
17. As noted, as the applicant Dr. Laurin-Phelan has the burden of proving her claims. Without documentary evidence to show the truck was impounded as a result of a lien from Ms. Button using the truck as collateral and not making payments, I find Dr. Laurin-Phelan has not met her burden of proving that Ms. Button is responsible for the truck being impounded. So, I find Dr. Laurin-Phelan has not proved she is entitled to any reimbursement for impound fees, insurance payments, or any associated costs including the alleged BC Provincial Court filing fee. I dismiss Dr. Laurin-Phelan's claims.

### ***CRT fees and expenses***

18. In her primary claim, Dr. Laurin-Phelan included claims for reimbursement of paid CRT fees and \$130 in service fees for registered mail and mileage costs for her attempts to serve Ms. Button. I find these are claims for reimbursement of CRT fees

and dispute-related expenses. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. However, as Dr. Laurin-Phelan was unsuccessful in this dispute, I find she is not entitled to any reimbursement for paid CRT fees or any dispute-related expenses. Ms. Button did not pay any fees or claim any dispute-related expenses.

## **ORDER**

19. I dismiss Dr. Laurin-Phelan's claims and this dispute.

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Leah Volkers, Tribunal Member