



Civil Resolution Tribunal

Date Issued: August 6, 2024

File: SC-2023-004706

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shroff-Mehrabadi v. Magnes Auto Group Ltd.*, 2024 BCCRT 748

B E T W E E N :

ZUBIN SHROFF-MEHRABADI

APPLICANT

A N D :

MAGNES AUTO GROUP LTD. and W. A AUTO SERVICES LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. Zubin Shroff-Mehrabadi purchased a used vehicle from the respondent, Magnes Auto Group Ltd. (Magnes). The respondent W. A Auto Services Ltd. (WA Auto) performed a pre-purchase inspection. Mr. Shroff-Mehrabadi says that after purchasing the vehicle, he learned that it required fluid replacement and repairs. He initially claimed \$1,797 from the respondents for amounts he paid to replace the vehicle's fluids and

repair its rear shocks, though he later abandoned the claim for the shock repair as discussed below.

2. WA Auto says that all of the vehicle's fluid levels were according to manufacturer specifications when it inspected it. Magnes says that it relied on WA Auto's expertise, and that it had all recommended work completed before selling the vehicle to Mr. Shroff-Mehrabadi. The respondents ask me to dismiss Mr. Shroff-Mehrabadi's claims.
3. Mr. Shroff-Mehrabadi is self-represented. Each of WA Auto and Magnes is represented by a director or officer.

JURISDICTION AND PROCEDURE

4. 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.
5. 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, none of the parties requested an oral hearing, and I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Considering the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
6. 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.
7. In submissions, Mr. Shroff-Mehrabadi refers to settlement discussions with the respondents. As Magnes notes, the CRT's rules say that settlement discussions must not be disclosed to a tribunal member unless the parties agree. As there is no

evidence before me that the parties agreed to disclose settlement discussions, I have not considered these discussions in my decision.

8. Magnes says that Mr. Shroff-Mehrabadi also pursued a complaint against it with the Vehicle Sales Authority (VSA), which regulates vehicle dealerships in BC. Magnes says that the VSA found no wrongdoing on its part, and dismissed Mr. Shroff-Mehrabadi's complaint. None of the parties provided evidence about the VSA's findings, and I note that its findings are not binding on me in any event. So, I have not considered the outcome of the VSA complaint in this decision.

ISSUES

9. The issues in this dispute are:
 - a. Did WA Auto or Magnes misrepresent the vehicle's condition?
 - b. Did Magnes breach any implied warranties for the vehicle's sale?

EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Mr. Shroff-Mehrabadi 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.
11. Mr. Shroff-Mehrabadi purchased a used 2009 Mitsubishi Outlander XLS from Magnes Auto on December 1, 2022. The parties agree that WA Auto inspected the vehicle prior to the sale. The respondents say that WA Auto's inspection was also on December 1, but its inspection report is dated November 30. I find nothing turns on the precise inspection date.
12. WA Auto's inspection report marked the vehicle's fluid levels as "pass". On December 2, 2022, Mr. Shroff-Mehrabadi took the vehicle to a Mr. Lube location. Mr. Shroff-Mehrabadi says that the Mr. Lube technicians told him that the transmission fluid and

rear differential fluid needed to be flushed and replaced, and the engine oil also needed to be replaced. Mr. Shroff-Mehrabadi says he paid \$682.02 for these services. This is supported by a Mr. Lube invoice in evidence.

13. Mr. Shroff-Mehrabadi also says that he had additional fluids replaced in February 2023 for \$595, and had the vehicle's rear shocks replaced in May 2023 for \$520. While Mr. Shroff-Mehrabadi initially claimed these amounts in his Dispute Notice, he appears to abandon this claim in his later submissions. He says that he understands that it is harder to prove that the respondents should be responsible for the later work, and I note that he provided no evidence in support of these amounts. However, Mr. Shroff-Mehrabadi says that he believes he is still entitled to compensation for the Mr. Lube invoice, as well as a refund of the \$475 dealer fee he paid to Magnes.
14. I find the claim for the dealer fee is not properly before me, as it was not identified in Mr. Shroff-Mehrabadi's Dispute Notice. The purpose of the Dispute Notice is to define the issues and provide fair notice to the other parties of the claims against them. I find it would be procedurally unfair for me to consider a new claim at this late stage. While CRT rule 1.19(1) allows applicants to request amendments to a Dispute Notice, rule 1.19(3) says the CRT will not allow amendments during the CRT's decision stage except in extraordinary circumstances. I find Mr. Shroff-Mehrabadi paid the dealer fee and was aware of it before he filed this dispute, and there are no extraordinary circumstances that would justify amending his Dispute Notice at this time.
15. So, I have only considered Mr. Shroff-Mehrabadi's claim for the Mr. Lube invoice, as I find he has abandoned his other claims.

Misrepresentation

16. Mr. Shroff-Mehrabadi says that the respondents misled him about the vehicle's condition. A misrepresentation is a false statement of fact made during negotiations or in an advertisement that induces someone to enter a contract. If a seller fraudulently or negligently misrepresents a vehicle's condition, the buyer may be entitled to compensation for losses arising from it.

17. Mr. Shroff-Mehrabadi argues that the respondents represented that the vehicle was in good condition and would not require any immediate maintenance. He says he relied on this representation in agreeing to purchase the vehicle.
18. The respondents do not dispute that they represented to Mr. Shroff-Mehrabadi that the vehicle was in good condition and would not require immediate maintenance. However, I infer they argue that this representation was true. WA Auto says that it performed a safety inspection in accordance with the Commercial Vehicle Safety and Enforcement standards, and that all of the vehicle's fluids were at the manufacturer's specified levels. Magnes says that WA Auto's report certified that the vehicle did not have any issues, and was safe to sell. Both respondents say that the vehicle's fluids did not need to be replaced.
19. As noted, Mr. Shroff-Mehrabadi says that the Mr. Lube technicians told him that the transmission fluid, rear differential fluid, and engine oil needed to be replaced. He says that the technicians found heavy metal filings in the rear differential fluid and transfer case. This is supported by the Mr. Lube invoice, which says in part, "heavy metal fillings got it from the rear and t-case drain plug" (reproduced as written).
20. However, the difficulty for Mr. Shroff-Mehrabadi is that the Mr. Lube invoice does not explain how the heavy metal filings affect the vehicle's operation. While the respondents do not dispute that metal filings were present, WA Auto says that this is normal wear and tear and does not indicate differential failure unless there are big pieces of metal in the fluid.
21. Mr. Shroff-Mehrabadi provided screenshots of two websites discussing metal shavings in transmission fluid. I give these screenshots little weight, for two reasons. First, their authors are not identified, and it is unclear what their qualifications are. Second, both screenshots deal with transmission fluid, not differential fluid, which is where the metal filings were in this case.
22. In any event, both screenshots say that fine metal shavings in transmission fluid are not concerning, but larger chunks or fragments can indicate transmission problems.

The Mr. Lube invoice does not identify how large the metal filings it found were, and there are no photographs of the filings in evidence.

23. The Mr. Lube invoice does not say how it determined that any of the fluids required replacement. So, I find Mr. Shroff-Mehrabadi has not proven that the vehicle was not in good condition at the time he purchased it.

Implied warranties

24. Although not explicitly argued by Mr. Shroff-Mehrabadi, I also considered whether Magnes, as the vehicle's seller, breached any implied warranties as to the vehicle's condition.
25. The purchase agreement between Mr. Shroff-Mehrabadi and Magnes says that there is no warranty on the vehicle's sale. However, as Magnes is undisputedly in the business of selling cars, the purchase agreement is subject to the *Sale of Goods Act* (SGA). Under SGA section 18, there is an implied warranty that the vehicle is reasonably fit for its purpose and is of "merchantable quality". There is also an implied condition that the vehicle will be durable for a reasonable period of time, considering its normal use and the surrounding circumstances of the sale.
26. A used vehicle is considered "merchantable" if it is in usable, even if not perfect, condition (see *Clayton v. North Shore Driving School et al*, 2017 BCPC 198). With respect to determining whether a used vehicle is durable for a reasonable period of time, factors to consider include the age and mileage of the vehicle, the nature of use before and after purchase, the price paid, the reasons for any defects, and the expectations of the parties as determined by express warranties. For an older vehicle, if it is roadworthy at the time of sale, it is likely to be considered reasonably durable, even if it breaks down shortly afterwards. (see *Sugiyama v. Pilsen*, 2006 BCPC 0265).
27. Here, I find the vehicle was fit for its purpose and was of merchantable quality and reasonably durable at the time Mr. Shroff-Mehrabadi purchased it. The vehicle was undisputedly functional at the time of the purchase, and did not break down. Instead,

Mr. Shroff-Mehrabadi says that it required immediate maintenance, which he did not expect. However, for the reasons set out above, I find Mr. Shroff-Mehrabadi has not proven that the fluid changes were necessary or that the vehicle was otherwise unsafe to drive when he purchased it.

28. As I have found that the respondents did not misrepresent the vehicle's condition, and Magnes did not breach the SGA implied warranties, I dismiss Mr. Shroff-Mehrabadi's claims.

CRT FEES AND EXPENSES

29. 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 Mr. Shroff-Mehrabadi was unsuccessful, I dismiss his claim for CRT fees. Neither respondent paid CRT fees or claimed dispute-related expenses, so I make no order for them.

ORDER

30. I dismiss Mr. Shroff-Mehrabadi's claims and this dispute.

Alison Wake, Tribunal Member