



Civil Resolution Tribunal

Date Issued: August 27, 2024

File: SC-2023-006289

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Salehi v. 598755 B.C. Ltd. (dba Pacific Honda)*, 2024 BCCRT 831

B E T W E E N :

EFAT SALEHI

APPLICANT

A N D :

598755 B.C. Ltd. (Doing Business As PACIFIC HONDA) and THE DICK
IRWIN GROUP LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Jeffrey Drozdiak

INTRODUCTION

1. This dispute is about a ceramic paint protection service for a used vehicle.
2. On September 8, 2022, the applicant, Efat Salehi, bought a used vehicle from the Pacific Honda dealership operated by the respondent, The Dick Irwin Group Ltd. (Irwin). During the purchase, Ms. Salehi agreed to pay Irwin to have a third-party

polish and apply a ceramic paint protection to the vehicle. Ms. Salehi says the third-party did not remove several swirl marks and the ceramic coating disappeared after six months. Ms. Salehi argues the polish was not done properly, and Irwin misrepresented the service and the paint protection product. She seeks a full refund of \$1,100.

3. Irwin says Ms. Salehi bought a used vehicle, and it did not claim paint defects, imperfections, or swirl marks could be removed. Irwin denies it misrepresented the service or the paint protection product. It also says the third-party applied the product to industry standards.
4. The respondent, 598755 B.C. Ltd. (Doing Business As Pacific Honda) (598), says it did not own the business when this dispute arose. In any event, it denies Ms. Salehi's claims for the same reasons as Irwin.
5. Ms. Salehi is represented by her non-lawyer son, SG. Irwin is represented by an employee. 598 is represented by its general manager.

JURISDICTION AND PROCEDURE

6. 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.
7. 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. The parties call into question the credibility, or truthfulness, of the other's evidence. In *Downing v. Strata Plan VR2356*, 2023 BCCA 100, the court recognized that oral hearings are not always needed where credibility is in issue. Neither party requested an oral hearing. The claim is also for a relatively small amount. So, bearing in mind the CRT's mandate is for proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

8. 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.
9. Where permitted by CRTA section 118, 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

10. The issue in this dispute is whether Ms. Salehi is entitled to a refund of the \$1,100 she paid Irwin for the ceramic paint protection service.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, Ms. Salehi, as the applicant, must prove her claims on a balance of probabilities (meaning “more likely than not”). Despite having the opportunity to do so, 598 did not provide documentary evidence. I have read all the parties’ submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
12. I will start by addressing the role of the two respondents. In its Dispute Response, 598 says it bought Pacific Honda in April 2023 and this dispute happened before it owned the business. In submissions, 598 adopted Irwin’s defence. Ms. Salehi does not say why she included both respondents. I find nothing turns on 598 being added as a party, given my conclusion below to dismiss this dispute.
13. On September 8, 2022, Ms. Salehi and SG went to Pacific Honda and bought a used 2019 Honda Ridgeline. The vehicle was four years old and had 37,184 km. I infer from the parties’ submissions that Ms. Salehi bought the vehicle for SG to use.
14. To complete the purchase, Ms. Salehi and SG met with Irwin’s financial services manager, MC. Ms. Salehi was offered various protection options for the vehicle, which included having ceramic paint protection applied to the vehicle’s exterior. Ms. Salehi

purchased the ceramic paint protection option, which was completed by a third-party, Bashir's Auto (Bashir's). From the purchase agreement, I find Ms. Salehi paid \$1,100 for this service.

15. Ms. Salehi says MC told them that Bashir's would buff out and remove all the pre-existing swirl marks. Ms. Salehi says MC also told them that the ceramic coating would cause water to bead on the vehicle's surface and last 10 years. She also says Bashir's told them the polish would be a two-step process, which convinced them to buy the service.
16. When they received the vehicle, Ms. Salehi says they discovered that the vehicle still had a lot of swirls. After six months, Ms. Salehi says the vehicle was riddled with iron rust particles and water no longer beaded on the vehicle's surface. So, Ms. Salehi says they contacted both Bashir's and Irwin to express their concerns. Bashir's agreed to polish the vehicle again and apply a new ceramic coating. Ms. Salehi says even after another polishing the vehicle still has swirl marks.

Is Ms. Salehi Entitled to a Refund?

17. Ms. Salehi argues that Irwin falsely advertised the ceramic paint protection service. I find Ms. Salehi is claiming Irwin made either a negligent or fraudulent misrepresentation during the sales process.
18. To prove fraudulent misrepresentation, Ms. Salehi must show Irwin made a false representation of fact, Irwin knew it was false or recklessly made it without knowing it was true or false, and Ms. Salehi was induced by the false representation to buy the service (see *Ban v. Keleher*, 2017 BCSC 1132 at paragraph 16).
19. To prove negligent misrepresentation. Ms. Salehi must show Irwin made a representation that was untrue, inaccurate, or misleading, Irwin breached the standard of care in making the misrepresentation, and Ms. Salehi reasonably relied on the misrepresentation to her detriment (see *Queen v. Cognos Inc.*, 1993 CanLII 146 (SCC)).

20. In both cases, Ms. Salehi must prove Irwin made a false or untrue statement. For the following reasons, I find Ms. Salehi has failed to do this.
21. First, Ms. Salehi claims MC said Bashir's would buff out all the pre-existing swirl marks. Irwin says Ms. Salehi bought a used vehicle and it told her it was not possible to remove all pre-existing marks. In support, Irwin provided a statement from MC, which said:
- a. They offered various protection options for the vehicle to Ms. Salehi and SG, including ceramic paint protection.
 - b. Ms. Salehi and SG brought up swirl marks, and MC told them as a used vehicle it was not possible to remove all those marks.
 - c. They told Ms. Salehi and SG that Bashir's would do its best to remove all minor imperfections by buffing and polishing the vehicle before applying the ceramic coating. However, as a used vehicle most of the marks would remain.
 - d. They told Ms. Salehi and SG that the ceramic coating is a paint sealant that protects the existing condition of the vehicle's paint from further discolouration or fading. The ceramic coating is not designed to remove damage. However, the service should improve the paint's surface because Bashir's will polish the surface before applying the coating.
22. Ms. Salehi did not provide documentary evidence to support her claim about what MC told them. So, I am left with an evidentiary tie as to what each party says happened. As noted, Ms. Salehi bears the burden of proving that it was more likely than not what she says happened. Based on the information available, and the fact Ms. Salehi was buying a used vehicle, on balance I find Ms. Salehi has not proven what she says happened. So, I find Ms. Salehi has not proven that Irwin misrepresented the polishing service.

23. I find Ms. Salehi also did not provide sufficient evidence showing the alleged swirl marks. Ms. Salehi did not provide evidence showing the vehicle's condition when she first received the vehicle from Bashir's. Ms. Salehi only provided a brief video showing the vehicle after Bashir's polished it again and reapplied the ceramic coating. I find the video shows some faint abrasions that can be seen in the sun's reflection. However, based on this evidence I find the marks are relatively minor.
24. Second, Ms. Salehi claims MC told them the ceramic coating would cause water to bead on the vehicle's surface. In support, Ms. Salehi provided a video taken on March 15, 2023, showing someone spraying two vehicles with water. One vehicle, which Ms. Salehi says just received a ceramic coating, water droplets formed before rolling down the vehicle's side. For Ms. Salehi's vehicle, water formed a layer before washing down the vehicle's side.
25. Ms. Salehi says Bashir's applied another ceramic coating to the vehicle in April 2023. Notably, Ms. Salehi does not say that she had any further issues after Bashir's reapplied the ceramic coating. There is also no evidence before me showing any further issues occurred. I infer this means there may have been an issue with the original coating, but Bashir's fixed this with a second coating. So, I find Ms. Salehi has not proven MC made a false statement that the ceramic coating would cause water to bead on the vehicle's surface.
26. Third, Ms. Salehi claims MC told them the ceramic coating would last 10 years. In support, Ms. Salehi provided a Honda advertisement for Honda Plus Cerami-Coat, which guarantees protection for 10 years. Irwin says this product is only offered for new vehicles and it did not provide this product to Ms. Salehi. Instead, Irwin says Ms. Salehi received a product offered by First Canadian Protection Products (FCPP).
27. Ms. Salehi's allegation is not supported by the documentary evidence. Both parties provided an agreement between Ms. Salehi and FCPP for the ceramic paint protection. The agreement says the paint protection is warranted for 36 months. Nowhere does it say Ms. Salehi would be receiving the Honda Plus Cerami-Coat or it would be guaranteed for 10 years. Based on this evidence, I am not satisfied that

MC guaranteed the ceramic coating would last 10 years. So, I find Ms. Salehi has not proven Irwin misrepresented how long the ceramic coating would last.

28. Finally, Ms. Salehi claims Bashir's told them they would do a two-step polish. She argues Bashir's did not do this. Ms. Salehi says a two-step polish should remove 85% of the defects and take 4-6 hours. She says Bashir's probably spent one hour in total and only removed 30% of the defects.
29. I find Ms. Salehi is alleging Bashir's misrepresented the polishing process and did not complete the job to industry standards. Bashir's is not a party to this dispute and did not have the opportunity to provide evidence or respond to Ms. Salehi's allegations. So, I decline to discuss these allegations any further.
30. Overall, I find Ms. Salehi has failed to prove Irwin misrepresented the ceramic paint protection service, and I dismiss her claim for a \$1,100 refund.
31. 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 Ms. Salehi was unsuccessful, I dismiss her claim for reimbursement of CRT fees. The respondents are the successful parties. Neither party paid any CRT fees nor claimed any dispute-related expenses, so I award no reimbursement.

ORDER

32. I dismiss Ms. Salehi's claims and this dispute.

Jeffrey Drozdiak, Tribunal Member