



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Claydon-Platt v. Rowand's Reef Scuba Shop Ltd.*,
2024 BCCRT 854

B E T W E E N :

DAMIAN CLAYDON-PLATT

APPLICANT

A N D :

ROWAND'S REEF SCUBA SHOP LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about a dive computer. The applicant, Damian Claydon-Platt, hired the respondent, Rowand's Reef Scuba Shop Ltd. (Rowand), to service and replace the computer's 2 batteries. The dive computer stopped working after Rowand

performed the work. He seeks an order for Rowand to repair the computer and return it to him, which he values at \$490.

2. Rowand denies liability. It says the dive computer was old and had preexisting issues from being lost in the ocean for 6 months. This made it prone to breaking at any time. Rowand also says it never touched the part that failed and there are no physical signs it caused damage or flooding in the components.
3. Dr. Claydon-Platt represents himself. Rowand's owner, Cody Tyson-Pearce, represents it.
4. For the reasons that follow, I dismiss Dr. Claydon-Platt'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 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. In resolving disputes, the CRT must apply principles of law and fairness.
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 Rowand is liable for causing damage to the dive computer, and if any remedies are appropriate.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Dr. Claydon-Platt as the applicant must prove his claim on a balance of probabilities. 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.
11. The following facts are undisputed except where noted. On July 18, 2023, Dr. Claydon-Platt dropped off his dive computer with Rowand for servicing and a battery change. Photos show the computer resembles a digital wristwatch. The parties' submissions indicate that dive computers are used in activities such as SCUBA diving in the ocean.
12. The transaction is partially documented in a July 19, 2023 receipt. It shows that Dr. Claydon-Platt paid Rowand \$263.18. The receipt did not contain any additional contract terms. Given this, I find that it was an implied term that Rowand would do the work in a reasonably professional manner, without guaranteeing the dive computer would work no matter the cause.
13. On August 2, 2023, Mr. Tyson-Pearce replaced the dive computer's battery, powered it up, and completed a "submerged pressure test" without incident. He left it to dry. About an hour later, he noticed that the computer had completely powered off and developed a "screen bleed". A photo shows this resembles a dark blotch on the digital display.

14. Mr. Tyson-Pearce called Dr. Claydon-Platt to ask if the computer ever had any problems or repairs. Dr. Claydon-Platt said he had previously lost it underwater for 6 months. Mr. Tyson-Pearce advised that the computer was broken. He added that it was likely not from the work he had done, and that he could send it to the manufacturer for a repair quote. However, Mr. Tyson-Pearce would not pay for the additional repairs.
15. The parties agreed to send the computer to the manufacturer. Mr. Tyson-Pearce says that on August 16, 2023, he spoke to the manufacturer who said that the computer's circuit board had short-circuited and would need a new inner module. This was likely caused by age. Further, the manufacturer refused to fix the computer at its cost.
16. Dr. Claydon-Platt questions whether the manufacturer actually said these comments. Rowand says the manufacturer did not wish to participate in this dispute. So, it provided no documentary evidence. I find Mr. Tyson-Pearce's account is likely accurate as it is consistent with other evidence discussed below. That said, I find there is enough evidence to support my decision without relying on the call.
17. Dr. Claydon-Platt in reply submissions says the manufacturer did not provide any comments to him because he lacked the computer's serial number. It is on the computer itself. He says Rowand refused to provide the number. Assuming this is the case, I find he could have picked up the dive computer to obtain the number. There is no indication that Rowand refuses to return it.
18. Next, Rowand called Dr. Claydon-Platt and relayed the news. It said that it could fix the computer at a cost of \$400 plus shipping. In subsequent emails he reduced the cost to \$240 plus shipping. Alternatively, he said Dr. Claydon-Platt could pick up the computer. Dr. Claydon-Platt refused and left the computer with Rowand.

Is Rowand liable for causing damage to the dive computer?

19. Given the lack of specific contract terms, I find Dr. Claydon-Platt essentially alleges professional negligence in the performance of the contract. To prove negligence, Dr. Claydon-Platt must show Rowand owed him a duty of care, Rowand breached the

standard of care, Dr. Claydon-Platt suffered loss or damage, and the damage was caused by Rowand's breach. It must also be reasonably foreseeable that Rowand's failure to meet the applicable duty or standard could cause the damage. See *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.

20. I find that Rowand owed Dr. Claydon-Platt a duty of care given that Rowand had the dive computer in its possession. I find that Rowand was a professional given the specialized nature of the work. I find the applicable standard of care was a reasonable and prudent dive computer technician in the circumstances.
21. Expert evidence is usually required to prove the standard of care of professionals. The two exceptions to this are when the deficiency is not technical in nature, or where the work is obviously substandard. See *Schellenberg v. Wawanese Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112 and *Aulakh v. Nahal*, 2017 BCSC 1000, aff'd 2019 BCCA 57.
22. I find determining the cause of the computer's failure is technical in nature. While the dive computer stopped working shortly after Rowand did the work, I do not find it obvious that Rowand's work was substandard. For example, the pictures of the computer in evidence do not show any obvious mistreatment by Rowand.
23. Dr. Claydon-Platt did not provide any expert evidence about the standard of care. Rowand provided an email from Jose Ventura, a rebreather OEM customer support specialist. The author had 30 years of experience as a user of diver computers and more than 20 years as a dive professional. They worked for a dive computer manufacturer at one point. The author did not have a chance to see the specific dive computer in this dispute, nor were they an expert in that specific brand and model.
24. The author said the following. Dive computers can sometimes break for no obvious reason. This is because dive computers are electronics that are subject to both water and pressure. Non-obvious reasons could include faulty electronics, repeated small mechanical stresses that break connections or components, or micro fissures that cause water egress.

25. The author added that it was impressive that the dive computer continued to work after 6 months underwater. However, the computer was likely exposed to extra mechanical stress from underwater movement that could weaken its connections and components, as discussed above.
26. I find the email is expert evidence. I note that it is flawed as it failed to provide any evidence about the standard of care for Rowand, nor did the author view the dive computer at issue. Even so, I find it is the best evidence before me that provides an explanation for the dive computer's failure to operate. That is, the dive computer likely stopped working due to repeated small mechanical stress.
27. Other facts support my finding. A similar model's user manual says that a dive computer should be kept dry when not in use. I find this principle likely applied to the computer in this dispute. Dr. Claydon-Platt candidly admits that he purchased the dive computer in December 2012. So, it was approximately 11 years old when he bought it to Rowand. On balance, I find the computer's age and being submerged for 6 months caused it to stop working rather than any breach by Rowand.
28. For all those reasons, I dismiss Dr. Claydon-Platt's claim.
29. 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. I see no reason in this case not to follow that general rule. I dismiss Dr. Claydon-Platt's claim for reimbursement of CRT fees. The parties did not claim any specific dispute-related expenses.

ORDER

30. I dismiss Dr. Claydon-Platt's claim and this dispute.

David Jiang, Tribunal Member