



Civil Resolution Tribunal

Date Issued: December 19, 2024

File: SC-2023-005979

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dhillon v. J P Transmission Ltd.*, 2024 BCCRT 1289

B E T W E E N :

KULWINDER DHILLON

APPLICANT

A N D :

J P TRANSMISSION LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Mennie

INTRODUCTION

1. This dispute is about a warranty for vehicle repairs.
2. The applicant, Kulwinder Dhillon, paid the respondent, J P Transmission Ltd. \$5,699.99 to repair his truck. Mr. Dhillon says that J P Transmission did not repair the truck properly and did not honour its warranty. He asks for \$5,699.99 in

damages but reduced his claim to \$5,000 to fit within the Civil Resolution Tribunal's (CRT) small claims monetary limit.

3. J P Transmission says that Mr. Dhillon should not be allowed to bring a claim at the CRT because Mr. Dhillon already disputed its credit card charge and started the same claim at the British Columbia Provincial Court (BCPC). J P Transmission also says that Mr. Dhillon never brought the truck back to fulfill the warranty.
4. Mr. Dhillon is represented by a non-legal representative. J P Transmission is represented by an employee.

JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons. 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 hearing's format. Neither party requested an oral hearing, however, in some respects both parties call into question the other's credibility. In *Downing v. Strata Plan VR2356*, 2023 BCCA 100, the BC Court of Appeal recognized that oral hearings are not necessarily required where credibility is in issue. Deciding whether to hold an oral hearing requires weighing the advantages of an oral hearing and cross-examination against the CRT's mandate to resolve disputes in an accessible, speedy, economical, informal, and flexible manner. Here, the main factual dispute is about whether Mr. Dhillon brought the truck back to J P Transmission for additional repairs. As I discuss below, Mr. Dhillon provided his Google Maps history to support his version of events. I find this evidence, along with other evidence and the parties' submissions, allows me to fairly decide this issue. As well, an oral hearing would delay resolution of this dispute. So, I find that the advantages of an oral hearing do not outweigh the benefits of resolving this dispute through written submissions.

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.

Preliminary Issue - Did Visa already resolve this dispute and, if so, should I refuse to resolve this claim?

8. Mr. Dhillon paid J P Transmission for the truck repair with his Visa credit card. He later disputed the credit card charge through Visa Resolve Online. J P Transmission says Visa examined “all documents” and decided to allow the credit card charge. It provided a financial statement showing Mr. Dhillon’s money was deposited in its bank account. It did not provide any evidence which showed how Visa arrived at its decision. For his part, Mr. Dhillon says that Visa found no evidence of fraud, so it allowed the charge but recommended that he bring a civil claim.
9. Section 11(a)(ii) of the CRTA says the CRT may refuse to resolve a claim if it has already been resolved through a dispute resolution process. I infer that J P Transmission is arguing that the credit card dispute was a dispute resolution process which led to a resolution, so I should refuse to resolve Mr. Dhillon’s claim.
10. I acknowledge that some previous non-binding CRT decisions have dismissed claims after a credit card charge dispute. For example, in *Vancouver Extended Stay Ltd. v. Schiavi et al*, 2018 BCCRT 278, the applicant participated in a binding arbitration of a disputed credit card charge. The tribunal member dismissed the claim on the basis that the dispute was already decided through arbitration.
11. However, I find this case can be distinguished from *Vancouver Extended Stay Ltd.* on the basis that there is no evidence the parties agreed to a binding, private arbitration. There is also no evidence about what Visa considered or how it arrived at its decision. So, I will resolve this claim.

Preliminary Issue - Is this claim an abuse of process because Mr. Dhillon started, and then withdrew, the same claim at the BCPC?

12. Mr. Dhillon filed a claim at the BCPC, but withdrew his claim a few months before the parties' scheduled trial date. J P Transmission argues that Mr. Dhillon abandoned his claim and that it is unfair and not a proper use of the legal system to file the same claim at the CRT. I find that J P Transmission is arguing that this CRT dispute is an abuse of process.
13. The doctrine of abuse of process exists to prevent the misuse of a court's (or tribunal's) process by litigation for an improper purpose. Abuse of process is established where allowing the litigation to proceed would violate important principles like economy, consistency, finality, and the integrity of the justice system (see *Toronto (City) v. C.U.P.E., Local 79*, 2003 SCC 63).
14. I appreciate that J P Transmission had to proceed through some similar steps at the BCPC and the CRT. However, Mr. Dhillon says, and I accept, that going to trial at the BCPC would cost him over \$1,000 for a translator and he would lose around \$1,000 because of missed work. I find that the cost of going to trial at the BCPC was a legitimate reason for Mr. Dhillon to switch to the CRT. So, I find that Mr. Dhillon's CRT claim was not started for an improper purpose and is not an abuse of process.
15. J P Transmission also references Rule 8(6) of the BCPC's *Small Claims Rules*. That rule says a person who files a Notice of Withdrawal at the BCPC may not file another notice with respect to the claim without the permission of a judge. However, I find this rule applies exclusively with respect to the withdrawn BCPC claim, and not with respect to a dispute at the CRT.
16. Section 15(2) of the CRTA permits a person to start a legally binding process, such as the BCPC claim, prior to starting a CRT claim. Section 15(1)(b) of the CRTA says Mr. Dhillon could start this CRT claim provided that he adjourn his BCPC claim. Mr. Dhillon complied with this section by filing a Notice of Withdrawal at the BCPC. So, I find that Mr. Dhillon can proceed with this CRT claim.

ISSUE

17. The issue in this dispute is whether J P Transmission breached its warranty for the truck's repair and, if so, is Mr. Dhillon entitled to damages?

EVIDENCE AND ANALYSIS

18. In a civil proceeding like this one, Mr. Dhillon, as applicant, must prove his claims on a balance of probabilities, meaning more likely than not. I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.
19. It is undisputed that Mr. Dhillon's truck broke down in September 2021 and that Mr. Dhillon took it to J P Transmission for repairs. J P Transmission rebuilt the truck's transmission and returned the truck to Mr. Dhillon on September 29, 2021. Mr. Dhillon paid \$5,699.99 for the repairs. J P Transmission's invoice says it will warranty the transmission repair for one year or 20,000 km, whichever comes first.
20. Mr. Dhillon says his truck's transmission continued to have issues with overheating at higher speeds or after travelling longer distances. He says throughout October, he returned multiple times to J P Transmission. He says each time J P Transmission told him it fixed the problem. Finally, on November 1, 2021, Mr. Dhillon says that J P Transmission refused to do any further repairs, told him the transmission needed to be rebuilt, and said it would charge him an additional \$5,700. Mr. Dhillon took his truck to another repair shop. He says the second repair shop fixed his truck's transmission and there are no ongoing issues.
21. J P Transmission says that it never had an opportunity to perform repairs under the truck's warranty because Mr. Dhillon never returned after the September repair. I do not find J P Transmission's submission credible. Mr. Dhillon provided his phone's Google Maps history which shows he returned to J P Transmission nine times between September 29 and November 1, 2021.

22. Also, the invoice clearly states that J P Transmission provides a warranty for its work on the transmission. I find it more likely that Mr. Dhillon would have tried to have the transmission fixed for free through the warranty, rather than pay additional fees at a different repair shop. So, I accept that Mr. Dhillon's truck continued to have issues, that he returned multiple times to J P Transmission, and that J P Transmission eventually refused to honour its warranty.
23. J P Transmission next argues that the truck's transmission was damaged because of an electrical problem which caused issues shifting gears. It makes this conclusion based on the second repair shop's invoice having a charge for a neutral safety switch. However, I find this is a matter outside ordinary experience which requires expert evidence. While I accept that J P Transmission is knowledgeable about automotive repair, CRT Rule 8.3(7) says that a party generally cannot act as their own expert in a CRT dispute because they lack neutrality. In any event, if the truck had an electrical problem, then J P Transmission should have fixed it during the initial or subsequent repairs.
24. In summary, I find that J P Transmission warrantied the transmission repair. It is undisputed that the truck remained within the warranty period on November 1, 2021. Mr. Dhillon's truck continued to have transmission issues and, despite its warranty, J P Transmission refused to do additional repairs on November 1, 2021. I find this was a breach of the warranty under the parties' contract to repair Mr. Dhillon's truck, so Mr. Dhillon is entitled to damages.
25. Damages for breach of contract are generally meant to put the innocent party in the same position as if the contract had been performed as agreed (see *Water's Edge Resort v. Canada (Attorney General)*, 2015 BCCA 319).
26. Mr. Dhillon claims \$5,699 in damages which is what he paid J P Transmission. He reduced his claim to \$5,000 to fit within the CRT's small claims monetary limit. However, his damages are his costs to fix the truck's transmission which is what J P Transmission was required to do under the parties' contract. Mr. Dhillon paid \$4,431 to the second repair shop to fix the truck's transmission. I find this was a reasonable

price to pay to fix the transmission and that it was a foreseeable consequence of J P Transmission breaching its warranty. So, I order J P Transmission to pay Mr. Dhillon \$4,431 in damages.

FEES, EXPENSES, AND INTEREST

27. The *Court Order Interest Act* applies to the CRT. Mr. Dhillon is entitled to interest on the \$4,431 from November 16, 2021, the day he paid the second repair shop's invoice, to the date of this decision. This equals \$476.97.
28. 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. Mr. Dhillon was largely successful, so I find he is entitled to reimbursement of \$175 for his paid CRT fees. He did not claim any dispute-related expenses.

ORDERS

29. Within 30 days of the date of this decision, I order J P Transmission to pay Mr. Dhillon a total of \$5,082.97, broken down as follows:
- a. \$4,431 as damages,
 - b. \$476.97 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175 in CRT fees.
30. Mr. Dhillon is entitled to post-judgment interest, as applicable.

31. This is a validated decision and order. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Peter Mennie, Tribunal Member