



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *2 Burley Men Moving Ltd. v. Apsouris*, 2024 BCCRT 1298

B E T W E E N :

2 BURLEY MEN MOVING LTD.

APPLICANT

A N D :

TAYLOR APSOURIS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Mennie

INTRODUCTION

1. This dispute is about moving services. The respondent, Taylor Apsouris,¹ hired the applicant, 2 Burley Men Moving Ltd. (Burley), for a residential move. Burley says Taylor Apsouris refused to pay its invoice. It claims \$2,273.95.

2. Taylor Apsouris says that Burley damaged their belongings during the move so they should not have to pay the full amount of Burley's invoice.
3. Burley is represented by an employee. Taylor Apsouris is self-represented.

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). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
5. Section 39 of the CRTA says the CRT has discretion to decide the hearing's format. 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.
6. 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.
7. 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

8. The issue in this dispute is what, if anything, does Taylor Apsouris have to pay Burley for its moving services?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, Burley must prove its claims on a balance of probabilities, meaning more likely than not. 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.
10. Taylor Apsouris hired Burley for a residential move on November 18, 2023. Burley's appointment confirmation says that Taylor Apsouris agreed to pay \$200 per hour for three movers plus \$75 for fuel. Taylor Apsouris does not dispute that they agreed to hire Burley on these terms.
11. Taylor Apsouris provided a copy of Burley's waybill which says that Burley's movers travelled for two hours and worked for eight hours. After tax and the \$75 fuel charge, the total was \$2,178.75. Burley provided the same waybill, however the \$2,178.75 total was crossed out, an \$85 (plus tax) packing supply fee was added, and the new total was \$2,273.95. Burley says the \$85 charge was for the purchase of five moving boxes.
12. Taylor Apsouris does not dispute that Burley's movers travelled two hours or worked eight hours. Though the total on Taylor Apsouris' waybill does not include the moving boxes, they do not dispute that they agreed to purchase five moving boxes for \$17 each. So, I find that Taylor Apsouris agreed to pay Burley \$85 for moving boxes and they owe Burley a total of \$2,273.95.
13. Taylor Apsouris says Burley damaged their belongings so they should not have to pay the full amount on Burley's invoice. I find they are arguing that Burley was negligent in moving their belongings, so they are entitled to a set off. A set off is a right between parties who owe each other money where their respective debts are mutually deducted, leaving the applicant to recover only the remaining balance.
14. Taylor Apsouris provided photos which show rips and stains on their mattress, a rip in their sofa, scratches on their vinyl floor, broken glassware, and a smashed personal item. They provided a receipt showing they paid \$599.68 for a new

mattress, but did not provide any other evidence about the value of their damaged belongings.

15. Prior CRT decisions about moving disputes have found that the mover has the burden of disproving negligence (see, for example, *2 Burley Men Moving Ltd. v. Fraser*, 2022 BCCRT 468). While previous CRT decisions are not binding on me, I agree with this reasoning and find that Burley has the burden of proving that it did not damage Taylor Apsouris' belongings.
16. In its submissions, Burley agrees to discount its invoice by \$225 to fix the ripped sofa. It does not specifically deny that its movers damaged the other items and provided no evidence to the contrary. So, I accept that the damage to Taylor Apsouris' belongings was caused by Burley's negligence during the move.
17. Burley says its liability is limited by the parties' contract. I infer that Burley is referring to its \$0.60 per pound coverage on its waybill. However, past CRT cases have found that Burley's \$0.60 per pound coverage does not limit Burley's liability for damaged items (see, for example, *2 Burley Men Moving Ltd. v. Cardinal*, 2024 BCCRT 913). This is because limiting or excluding liability in a contract must be done in clear and unambiguous terms. Burley's waybill says that its carrier liability coverage is \$0.60 per pound, however it does not say a customer's damages are limited to \$0.60 per pound. I find that Burley's waybill does not clearly indicate that its liability is limited. So, I find Burley is responsible for the damage to Taylor Apsouris' belongings.
18. So how much can Taylor Apsouris set off against what they owe Burley?
19. As noted above, Taylor Apsouris provided a receipt showing they paid \$599.68 for a new mattress. Burley did not dispute this amount or provide any evidence about the cost of a new mattress. So, I accept that \$599.68 was a reasonable amount to pay for a replacement mattress and allow Taylor Apsouris to deduct \$599.68 from what they owe Burley.

20. Burley provided an email from an upholstery repair company which said the sofa could be repaired for \$225. Taylor Apsouris says this estimate is not accurate because no professional assessed the sofa in person. However, they provided no alternative estimate for the sofa repair. So, I accept that \$225 is a reasonable cost to repair the sofa and allow Taylor Apsouris to deduct \$225 from what they owe Burley.
21. Neither party provided any evidence about the replacement cost for the vinyl flooring, glassware, or personal item. The scratches on the vinyl flooring appear to be minor and the glassware and personal item do not appear to be expensive. On the limited evidence before me, I find it reasonable to allow Taylor Apsouris to deduct a further \$100 from Burley's invoice.
22. In summary, I find that Taylor Apsouris owes Burley \$2,273.95 for its moving services, less \$599.68 for the mattress, \$225 for the sofa, and \$100 for the remaining items. So, I order Taylor Apsouris to pay Burley the difference which is \$1,349.27.

FEES, EXPENSES, AND INTEREST

23. The *Court Order Interest Act* applies to the CRT. Burley is entitled to pre-judgment interest on the \$1,349.27 from November 18, 2023, the date when it should have been paid for the move, to the date of this decision. This equals \$74.69.
24. 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 find the parties were both partly successful, so I order Taylor Apsouris to reimburse Burley half of its paid CRT fees, being \$62.50. Neither party claimed any dispute-related expenses.

ORDERS

25. Within 30 days of the date of this decision, I order Taylor Apsouris to pay Burley a total of \$1,486.46, broken down as follows:

- a. \$1,349.27 as debt,
- b. \$74.69 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$62.50 for CRT fees.

26. Burley is entitled to post-judgment interest, as applicable.

27. 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

¹ The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure that the CRT respectfully addresses them throughout the process, including in published decisions. Taylor Apsouris did not provide their title or pronouns, so I will refer to them by their full name and with gender neutral pronouns throughout this decision, intending no disrespect.