



# Civil Resolution Tribunal

Date Issued: November 30, 2021

File: SC-2021-003115

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Simpson v. Provincial Health Services Authority operating as BC  
Emergency Health Services, 2021 BCCRT 1258*

B E T W E E N :

JESSICA SIMPSON

**APPLICANT**

A N D :

PROVINCIAL HEALTH SERVICES AUTHORITY operating as BC  
EMERGENCY HEALTH SERVICES

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Laylí Antinuk

## INTRODUCTION

1. This dispute is about an allegedly damaged stove. The respondent is the Provincial Health Services Authority operating as BC Emergency Health Services (BCEHS).

The applicant, Jessica Simpson, says BCEHS paramedic employees damaged her stove by negligently placing their medical equipment on it.

2. Ms. Simpson seeks an order for \$2,100 to replace her stove. BCEHS says the paramedics did not damage Ms. Simpson's property.
3. Ms. Simpson is self-represented. Through its insurer, BCEHS is represented by Eric Stanger, a lawyer.
4. As explained below, I dismiss Ms. Simpson's claims.

## **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, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
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 a court of law. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to pay money, or to do or stop doing something. The CRT may also make an order that includes any terms or conditions the CRT considers appropriate.
9. Ms. Simpson says she does not want a specific paramedic, or that paramedic's colleagues, to ever attend her residence again. This requested remedy amounts to a request for injunctive relief, which is an order that someone do or stop doing something. My jurisdiction to order injunctive relief under CRTA section 118 is limited. I have no jurisdiction to order BCEHS to ensure that specific paramedics do not attend Ms. Simpson's home in the future. So, I decline to grant such an order.

## **ISSUES**

10. The issues in this dispute are:
  - a. Did the paramedics negligently damage Ms. Simpson's stove?
  - b. If so, is Ms. Simpson is entitled to \$2,100 in damages?

## **EVIDENCE AND ANALYSIS**

11. In a civil claim like this one, as the applicant Ms. Simpson must prove her claims on a balance of probabilities. This means Ms. Simpson must prove it is "more likely than not" that the paramedics negligently damaged her stove, entitling her to \$2,100 in damages.
12. I have read all the parties' evidence and arguments. However, I will refer only to what is necessary to explain my decision.
13. The parties agree that Ms. Simpson called BCEHS for assistance approximately 29 times between January and May 2021. It is undisputed that approximately 58 paramedics attended Ms. Simpson's home in response to these 29 calls. BCEHS says police and fire also attended in response to many of these calls. I accept BCEHS' evidence on this point, which Ms. Simpson does not dispute.

14. Ms. Simpson says BCEHS paramedics damaged her stove by putting medical equipment onto the cooktop during one of their visits. She says the paramedics' equipment chipped the stove's corner causing it to "spider into the cooktop." However, Ms. Simpson does not know when this happened. Ms. Simpson says she had surgery, so had not been using her stove because she was "in bed". She claims she only discovered the damage "weeks after" when she went to use her stove. She says she "didn't pay attention" to what the paramedics did, but instead "assumed they knew what they were doing".
15. To prove negligence, Ms. Simpson must show that:
  - a. The paramedics owed her a duty of care,
  - b. The paramedics breached the standard of care,
  - c. She sustained damage, and
  - d. The paramedics' breach of the standard of care caused the damage.

*See Mustapha v. Culligan of Canada Ltd.* 2008 SCC 27 at paragraph 3.

16. I accept that BCEHS paramedics owed Ms. Simpson a duty of care when attending her home to provide emergency health services. I find that the paramedics had a duty to take reasonable care in the circumstances to ensure that Ms. Simpson's property was not damaged by their provision of emergency health services.
17. However, the difficulty for Ms. Simpson is that she has not provided sufficient evidence to show that the paramedics breached the standard of care. She does not know when the alleged damage occurred. She says she was in bed and was not paying attention to what the paramedics did. Notably, Ms. Simpson does not claim that she actually saw paramedics put equipment on her stove. With all this in mind, I find that Ms. Simpson never saw the paramedics put medical equipment on her stove.
18. Additionally, I find that nothing in the evidence before me supports Ms. Simpson's claim that BCEHS paramedics put equipment on her stove. For example, Ms.

Simpson provided a signed statement from her parent as evidence. In that statement, her parent says, "I have been present on almost every call for assistance that my daughter makes to BC EHS." I understand from this statement that Ms. Simpson's parent was physically present in Ms. Simpson's home during most of her interactions with the paramedics. Yet, Ms. Simpson's parent says nothing about the stove, or whether paramedics put equipment on it.

19. More importantly, I am not persuaded that Ms. Simpson sustained damage to her stove. She did not provide any photos of her stove before or after the alleged damage occurred. Her parent did not mention the stove or damage to it.
20. The CRT tells parties they need to provide relevant evidence to support their positions. Despite this, apart from her own assertions, Ms. Simpson did not provide any evidence to show that her stove is damaged or that paramedics caused that damage.
21. Ms. Simpson also failed to provide any evidence to prove how much her stove is worth, or what it would cost to fix or replace it. Additionally, I find her statements about the cost of the alleged damage inconsistent. She claims \$2,100 to replace the stove but says it would cost "a few hundred dollars to fix". Yet, she also says the "nominal fee of replacing the cooktop" is "under \$1,000". Even if I had found that paramedics damaged Ms. Simpson's stove, I would have found that Ms. Simpson failed to prove her claimed damages.
22. Taking all this into account, I dismiss Ms. Simpson's claim for property damage. On balance, I find it unproven that the paramedics damaged Ms. Simpson's stove. I find that Ms. Simpson is not entitled to the claimed \$2,100 in damages.
23. 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. Ms. Simpson was unsuccessful, but in any event did not pay any CRT fees and claims no dispute-related expenses. BCEHS did not pay any CRT fees or claim any dispute-related expenses.

## **ORDER**

24. I dismiss Ms. Simpson's claims and this dispute.

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Laylí Antinuk, Tribunal Member