

COURT OF APPEAL FOR BRITISH COLUMBIA

Citation: *Stein v. PS Motors Ltd.*,
2025 BCCA 407

Date: 20251104
Docket: CA50519

Between:

Cheryl Stein

Appellant
(Petitioner)

And

PS Motors Ltd. and the Civil Resolution Tribunal

Respondents
(Defendants)

Before: The Honourable Madam Justice Fenlon
The Honourable Justice Dickson
The Honourable Justice Iyer

On appeal from: An order of the Supreme Court of British Columbia, dated
February 12, 2025 (*Stein v. PS Motors Ltd.*, Vancouver Docket S243447).

Oral Reasons for Judgment

The Appellant, appearing in person:

C. Stein

Counsel for the Respondent, PS Motors
Ltd.:

N. Girotra

Place and Date of Hearing:

Vancouver, British Columbia
November 4, 2025

Place and Date of Judgment:

Vancouver, British Columbia
November 4, 2025

Summary:

The appellant challenges the dismissal of her petition for judicial review of a decision of the Civil Resolution Tribunal. She argues the judge erred in concluding that the adjudicator was entitled to rely on human experience in making findings and that the appellant was provided with a fair process. The appellant also argues the judge gave too much deference to the Civil Resolution Tribunal and allowed them to overstep their authority. Held: Appeal dismissed. There was no error in the judge’s assessment of the adjudicator’s conclusion or determination that the adjudicator’s findings were error-free and available to the adjudicator.

DICKSON J.A.:

Introduction

[1] The appellant, Cheryl Stein, appeals an order dismissing her petition for judicial review of a decision of the Civil Resolution Tribunal (the “CRT”). The impugned decision concerns Ms. Stein’s dispute with the respondent, PS Motors Ltd. (“PS Motors”), regarding repair work and damage to her vehicle. Following a hearing based on documentary evidence, the CRT found that Ms. Stein had failed to prove the repairs were performed negligently and rejected her account of instructions allegedly provided by a PS Motors employee that led to the damage to her convertible. As a result, the adjudicator dismissed Ms. Stein’s claims for pecuniary and non-pecuniary damages.

[2] On judicial review, the chambers judge rejected Ms. Stein’s arguments that the CRT decision was patently unreasonable because the adjudicator found a critical fact that was unsupported by evidence, and that it was procedurally unfair because an oral hearing should have been held. Before us, she contends the judge erred by failing to find the CRT made palpable and overriding factual errors in not accepting her account of the instructions that led to the damage to the convertible’s top. In her factum she also argued that the judicial review hearing was procedurally unfair because, like the adjudicator, the judge was biased against her and too deferential to the CRT.

[3] For the following reasons, I would dismiss the appeal.

Background

[4] Ms. Stein owns a Volkswagen Beetle. In 2021, she retained PS Motors to replace its left rear window regulator. During the repair, one of the lift rods for the soft top was broken. The parties agreed that Ms. Stein would pay for a new lift rod, but that PS Motors would not charge her for the installation.

[5] Ms. Stein brought the car back to PS Motors the next day to have the lift rod replaced. When she arrived, she asked that its employees not enter the car due to COVID-19 concerns. Ms. Stein alleges she got into the car, a PS Motors employee named Justin told her to put the top down, and she followed his instruction, but when the top was about halfway down, she heard a crunching sound. The top was damaged by the lowering action. PS Motors agreed Ms. Stein entered her vehicle and lowered the top, which caused the damage. However, it alleged that Justin instructed her not to lower the top.

[6] The CRT is an online tribunal. It has jurisdiction in various areas, including actions for debt or damages in an amount of up to \$5,000. Among other things, its mandate is to resolve disputes in a manner that is “accessible, speedy, economical, informal and flexible”, uses electronic communication tools to facilitate their resolution, and applies “principles of law and fairness”: *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25, s. 2 [CRTA]. The CRT has discretion to decide the format of a hearing, including discretion to hold an in-person hearing “if the tribunal considers that the nature of the dispute or that extraordinary circumstances make an in-person hearing necessary in the interests of justice”: *CRTA*, s. 39.

[7] Ms. Stein brought a claim before the CRT for \$2,999 in damages for repair costs to her car and mental distress. Both parties submitted their evidence in documentary form. In her documentary evidence, Ms. Stein included notes she said she took regarding the incident, together with an email to PS Motors. For its part, PS Motors included an email sent by its manager to Ms. Stein and a statement from the manager, but it did not provide a direct statement from its employee, Justin. Ms. Stein did not ask for an in-person hearing.

CRT Decision

[8] Following a brief introduction, the CRT adjudicator addressed matters of jurisdiction and procedure. As to the latter, the adjudicator noted that credibility was in issue in some respects. However, she stated, “I find that I am properly able to assess and weigh the documentary evidence and submissions before me”: *Stein v. P.S. Motors Ltd.*, 2024 BCCRT 315 at para. 5. After noting the CRT’s mandate, she found that “an oral hearing is not necessary in the interests of justice”: at para. 5.

[9] The adjudicator described the nature of Ms. Stein’s claims and the evidence. Given the absence of expert evidence, she found that Ms. Stein had failed to prove the repairs performed by PS Motors were deficient or that it negligently broke the lift rod. As to the convertible top damage, she described the parties’ conflicting accounts of the instructions provided to Ms. Stein and stated that she “must decide whose evidence is more credible”: at para. 28. Then she said this:

34. In the absence of independent documentary evidence, I must consider which version of the events is more consistent with common human experience. In this regard, Ms. Stein says that [PS Motors] told her to put the top down because it could not do the repair with the top up. [PS Motors] acknowledges that it needed to put the top down to complete the repair, but says that it was possible to retract the top manually, which would require two people.

35. I find it unlikely that J would instruct Ms. Stein to lower the convertible top when it was undisputedly missing the lift rod. [PS Motors] says that it told Ms. Stein not to operate the convertible top when she took the vehicle home on April 13, 2021. While Ms. Stein’s notes say that [PS Motors] had put the top up for her with “seemingly no problem” before she went home, she does not dispute that [PS Motors] told her at this time not to move the top until the lift rod was repaired. Overall, I find it unproven that J instructed Ms. Stein to lower the top. I dismiss this part of Ms. Stein’s claim.

[10] Ms. Stein sought judicial review of the CRT decision, contending that the decision was patently unreasonable for two reasons. First, she alleged the adjudicator was not entitled to rely on human experience and, in doing so, made her decision based on speculation that the top could be retracted manually when there was no evidence to support that critical finding. Second, she alleged the decision was procedurally unfair because there was no evidence from Justin, and therefore

the adjudicator should have converted the hearing to an oral hearing to determine the credibility contest.

[11] CRT decisions are reviewed on a reasonableness standard. Challenges to the procedures that it employs are reviewed on fairness standard: *CRTA*, s. 56.8; *Downing v. Strata Plan VR2356*, 2023 BCCA 100 at para. 28.

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[12] The judge began her oral reasons by reviewing the factual background, Ms. Stein’s positions, and the standard of review. Then she dealt with each position in turn.

[13] The judge found it was not patently unreasonable for the adjudicator to rely on her human experience in assessing the credibility of the evidence. In support of that conclusion, she quoted from the decision of the Supreme Court of Canada in *R. v. Kruk*, 2024 SCC 7, including the Court’s statement that “common-sense assumptions necessarily underlie all credibility and reliability assessments”: at para. 73 [emphasis omitted]. She noted that the adjudicator’s statement about the ability to retract the convertible top manually was made in the context of describing PS Motors’ position and she accepted Ms. Stein’s position that PS Motors “did not in evidence expressly state that the top could be retracted manually”: at para. 23. However, she observed that the issue before her was whether the adjudicator based her decision on the statement of PS Motors’ position, which position the adjudicator summarized at paragraph 34 of the CRT decision: at para. 23.

[14] The judge went on to observe that the adjudicator’s actual assessment of credibility and factual findings are found in paragraph 35 of the CRT decision, and that the findings turned on whether Justin instructed Ms. Stein to lower the convertible top, not whether the top could be retracted manually. She noted the adjudicator did not accept Ms. Stein’s account of Justin’s alleged instructions and found, “based on the undisputed evidence of PS Motors’ instructions to [Ms. Stein] the previous night, that it was more likely that PS Motors did not instruct her to lower

the top”: at para. 25. Accordingly, the judge concluded that the findings were based on evidence available to the adjudicator and were not unreasonable: at para. 26.

[15] As to procedural fairness, the judge observed that the adjudicator had discretion to order an in-person hearing if she thought it was necessary in the interest of justice. She stated Ms. Stein had failed to establish the CRT did not follow its procedure under the *CRTA* or its rules. Then she asked whether Ms. Stein had established that the procedure followed was nevertheless unfair. In answering that question, the judge noted that Ms. Stein did not point to any evidence that she was unable to put before the CRT in writing and Ms. Stein confirmed that she did not request an in-person hearing. Rather, she noted, Ms. Stein’s submission was that the adjudicator could better assess credibility in person and, therefore, that she should have done so.

[16] The judge rejected Ms. Stein’s submission that the CRT decision was reached in a procedurally unfair manner:

[34] In the circumstances of the CRT, a statutory tribunal intended to facilitate an accessible, speedy, economical, informal and flexible process for dispute resolution, I find that [Ms. Stein] was provided with a fair process in the hearing proceeding by way of written submissions and written evidence.

[17] In the result, the judge dismissed the petition for judicial review.

Discussion

[18] On appeal, Ms. Stein repeats her arguments made in the court below regarding the alleged errors and unfairness in the CRT decision. She also submits the judge erred in not accepting her account of Justin’s instructions, gave too much deference to the CRT, and allowed the CRT to “overuse” their tribunal powers.

[19] Given the standard of review, I see no basis upon which this Court could interfere with the CRT decision.

[20] As the judge concluded, the CRT adjudicator was entitled to rely on common-sense in making her credibility determination and factual findings, which were

grounded in the evidence. The adjudicator was not obliged to accept Ms. Stein's account of what transpired. Moreover, as the judge noted, the adjudicator reached her conclusion that Ms. Stein had failed to prove Justin instructed her to lower the top, bearing in mind the fact that Ms. Stein did not dispute PS Motors told her not to move the top until the lift rod was repaired.

[21] I see no error in the judge's assessment of the adjudicator's conclusion or determination that, while Ms. Stein disagreed with the adjudicator's findings, those findings were error-free, based on the evidence, and available to the adjudicator.

[22] Nor do I see any error in the judge's conclusion that the CRT did not breach the requirements of procedural fairness by proceeding by way of written submissions and written evidence. The judge correctly assessed the issue through a fairness lens, noted that Ms. Stein was not prejudiced by the manner of the hearing and had not asked for an in-person hearing, and found that Ms. Stein was provided with a fair process. Ms. Stein's contentions that the judge was overly deferential to the CRT and biased against her are meritless. The judge was duly deferential to the error-free factual findings made by the adjudicator, and she thoroughly considered and addressed Ms. Stein's arguments, which she correctly rejected.

Conclusion

[23] I would dismiss the appeal.

[24] **FENLON J.A.:** I agree.

[25] **IYER J.A.:** I agree.

[26] **FENLON J.A.:** The appeal is dismissed.

[Discussion with parties re: costs]

[27] **FENLON J.A.:** Costs are awarded to the successful party.

[Discussion with parties re: dispensing with the appellant's signature as to form of order]

[28] **FENLON J.A.:** Counsel for the respondent will draft the order and send a copy to Ms. Stein. If Ms. Stein has no issues with the draft order after seven days, it can be submitted for entry.

“The Honourable Justice Dickson”