

SMALL CLAIMS COURT OF NOVA SCOTIA

Citation: *Mohammed v. Dell Canada Inc.*, 2022 NSSM 50

Date: 20220816

Docket: SCCH 514205

Registry: Halifax

Between:

Muqtader Akram Mohammed

Claimant

- and -

Dell Canada Inc.

Defendants

REASONS FOR DECISION AND ORDER

Adjudicator: Eric K. Slone

Heard: August 15, 2022 via zoom in Halifax, Nova Scotia

Appearances: For the Claimant, self-represented

For the Defendants, Mika Chow, law clerk

BY THE COURT:

[1] The Claimant bought an expensive Dell laptop in October 2018 from a company called Alfaitein Middle East LLC. The records pertaining to this laptop establish that in July 2018 it was sold by Dell Corporation (UK) to a company in the UK named Dixons Carphone PLC as part of a commercial order of 100 units. How it got from Dixons in the UK to Alfaitein in Dubai is unknown. What is also unknown is whether it was used during those few months, or still unused. The Claimant believed he was buying a new machine, and most likely it was new, or almost new.

[2] What we also know is that Alfaitein is not an authorized Dell dealership. We also know that the unit was originally manufactured and sold with a 512 gigabyte solid state drive (SSD), yet was sold to the Claimant with a 1 terabyte SSD. So at some time before the Claimant purchased it, it was opened up and the SSDs were swapped out. The Claimant does not appear to have known about the swap out of the SSD.

[3] The Claimant, who is an IT specialist by profession, moved to Canada in 2019 and brought the laptop with him. He currently works for the Nova Scotia Government, though this laptop was purely for his personal use.

[4] The warranty on the laptop expired in either 2020 or 2021. The documents are ambiguous in this respect.

[5] In early 2022, while trying to upgrade his operating system to Windows 11 from Windows 10, the computer crashed and would not start.

[6] The Claimant spoke with Dell customer support over the phone who instructed him on how to package the unit to send it to their repair facility in Ontario. They advised him that since the laptop was out of warranty, he would have to pay a fee of \$59.80 for it to be diagnosed. He did this. The technician proceeded to diagnose the problem and issued a quote for \$614.98 to replace what was determined to be a faulty motherboard. The Claimant paid this money.

[7] This is when the dispute arose.

[8] The Claimant spoke with someone at Dell and said that he expected them to send back the old motherboard (and any other faulty parts) along with his repaired computer. Plus he was asking that Dell send him a report explaining what caused the motherboard to fail.

[9] It was explained to the Claimant that Dell's policy is to retain any faulty parts that they replace.

[10] It is somewhat disputed as to what occurred next, but the Claimant was obviously unhappy and indicated that he was planning to make a complaint to the Better Business Bureau, which he proceeded to do. Dell then decided to refund all of the money that the Claimant had paid and return the laptop to the Claimant. Dell claims that this is what the Claimant asked for. The Claimant denies that he asked for this to be done. In the end, I do not think it matters whose idea it was.

[11] The current status is that the laptop remains non-functional. The Claimant is not out any money, having received a full refund from Dell. The Claimant has not explored the possibility of having it serviced elsewhere. He has brought this claim seeking damages of \$5,000.00, arguing that Dell has breached some legal duty to him.

[12] He could not really explain how he arrived at the \$5,000.00 damage figure but cites inconvenience plus the prospect of never being able to use his laptop.

[13] In my opinion, the Claim is misconceived.

[14] The laptop is long out of warranty, and there is no existing contractual relationship between the Claimant and Dell. The fact that he has a Dell branded device does not establish any such relationship. The fact that he bought it from a third party that is not a Dell authorized dealer, adds further distance.

[15] Dell is entitled to set policies for how it runs its repair shop. I accept that it has a policy that it retains faulty parts. I do not know the rationale for such a policy, though I can speculate that perhaps they do not want faulty Dell parts floating around in the marketplace. Whatever the rationale, it is not my role to second-guess them. The Claimant is, and at all times was, entitled to take his business elsewhere if he did not want to abide by Dell's policy.

[16] I do not believe Dell had any obligation to repair the Claimant's device so long as he was unwilling to respect their policy.

[17] It may be that Dell is best qualified to service this laptop, but I cannot accept that there is no other service option. It would be different if the machine was still under warranty, because service by a non-authorized facility might void the warranty, but that is not the case here. Whoever would do the work would likely provide a short warranty for that work.

[18] I find that the Claimant has failed to mitigate his damages by failing to seek out alternative service.

[19] Furthermore, the damages claimed are in the nature of general damages which this court has no jurisdiction to award, beyond \$100.00.

[20] In the result, I find no basis to impose liability on the Defendant and the claim must be dismissed.

ORDER

[21] For all of the above reasons, the claim is dismissed.

Eric K. Slone, Adjudicator