

Date: 2005-06632
File No: Vancouver
Registry:

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

BETWEEN:

GAK HIENG TANG aka DEBBIE TANG

CLAIMANT

AND:

MARINE CHRYSLER DODGE JEEP LTD

DEFENDANT

**REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE ROSS TWEEDALE**

Appearing for the Claimant:

Mr. David McWhinnie, Articled Student

Appearing for the Defendant:

Ms. Danielle Green, Articled Student

Place of Hearing:

Vancouver, B.C.

Date of Hearing:

December 8, 2005

Date of Judgment:

February 7, 2006

[1] The claimant, Ms. Tang, has sued the defendant car dealer for negligence, claiming \$6,988 in damages. She says that Carol Alexander, a defendant employee was negligent when she obtained information for a loan application from Ms. Tang. The bank refused the loan Ms. Alexander submitted the application on Ms. Tang's behalf to the Royal Bank.

[2] Ms. Tang also claims punitive damages.

[3] Ms. Alexander filled out a Royal Bank application for credit. Ms. Tang testified that Ms. Alexander told her that the accurate income figure to be provided was the amount Ms. Tang would expect to earn on her return to work from maternity leave (\$2,800 per month).

[4] The Royal Bank denied Ms. Tang the loan based on what they said was false information she supplied. The bank's position was that Ms. Tang had misled them because her maternity leave income (\$1,300 per month) was considerably less than her income she would earn on her return to work several months after the loan application was made.

[5] Ms. Tang's version of her conversation with Ms. Alexander was not contradicted by the only other party to the conversation, Ms. Alexander. Ms. Alexander was not called by the defendant to give evidence and she no longer works for the defendant.

[6] It would not make sense for Ms. Tang to try and mislead Ms. Alexander about her income, as the defendant argues, since Ms. Tang knew the information would be

[7] After the loan was denied, Ms. Tang should have returned the truck to Marine Chrysler and obtained her trade-in back or a credit for its value. However, Ms. Tang kept the truck. She was offered a new lease contract with a greater monthly payment of about \$75. When she refused this contract she was offered a lease with the same monthly payment as the original lease. She refused this contract as well and also refused to return the truck.

[8] Ms. Tang and her boyfriend drove the truck for slightly over two months. After a written demand was made to Ms. Tang to return the truck, the defendant hired a bailiff who seized the truck. The defendant was entitled to seize the truck. It was the owner and Ms. Tang had no right to possession.

[9] After the negligence of the defendant's employee, Ms. Tang hired a lawyer and started negotiations for a new contract with the claimant. A new lease was not agreed to. Therefore she was required to return the truck. Likewise the defendant was not entitled to simply sell Ms. Tang's trade-in without accounting for its value.

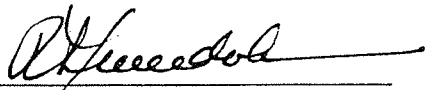
[10] Since the defendant went ahead and sold the trade-in, Ms. Tang is entitled to recover the value of her car taken as trade-in. The appropriate value was established by the trade-in allowance of \$6,900. The defendant elected to seize the truck and agrees it is not entitled to counterclaim an amount for Ms. Tang's use of the truck for two months or expenses related to repossession.

[11] Ms. Alexander's negligence in obtaining information from Ms. Tang and subsequent behaviour does not warrant punitive or aggravated damages. See

Mahrokh-Moghaddam v. Park [1994] BCJ 1573 cited in Siebert v. J & M Motors Ltd.

[1996] BCJ 876 for the applicable principles.

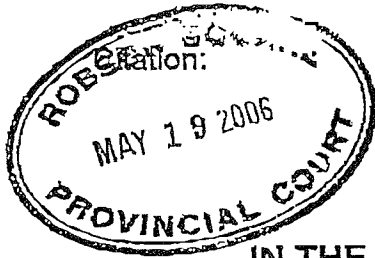
[12] I therefore award the claimant \$6,900, court ordered interest from March 4, 2005, to today and filing and service fees. The judgment is payable to the claimant by the defendant no later than 14 days from today.



Ross Tweedale
Provincial Court Judge

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BETWEEN:

GAK HIENG TANG aka DEBBIE TANG

CLAIMANT

AND:

MARINE CHRYSLER DODGE JEEP LTD

DEFENDANT

**CORRIGENDUM TO THE
REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE ROSS TWEEDALE**

Appearing for the Claimant:

Mr. David McWhinnie, Articled Student

Appearing for the Defendant:

Ms. Danielle Green, Articled Student

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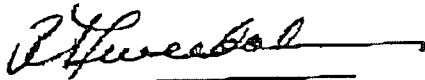
Tang v. Marine Chrysler Dodge

CORRIGENDUM – Released May 19, 2006

[1] In my Reasons for Judgment dated February 7, 2006, paragraph [6] is incomplete. Paragraph [6] should read as follows:

[6] It would not make sense for Ms. Tang to try and mislead Ms. Alexander about her income, as the defendant argues, since Ms. Tang knew the information would be checked for accuracy by the bank with her employer. The negligence of the defendant's employee led directly to the Royal Bank's refusal to finance Ms. Tang's truck lease.

[2] My Reasons for Judgment are amended accordingly.



Ross Tweedale
Provincial Court Judge