



Civil Resolution Tribunal

Date Issued: April 23, 2024

File: SC-2022-008519 and
SC-CC-2023-011146

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *North Mountain Construction Ltd. v. Shasheen Machine Ltd.*, 2024 BCCRT
390

B E T W E E N :

NORTH MOUNTAIN CONSTRUCTION LTD.

APPLICANT

A N D :

SHASHEEN MACHINE LTD.

RESPONDENT

A N D :

NORTH MOUNTAIN CONSTRUCTION LTD.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. These disputes are about a damaged door and unpaid invoices. This decision relates to 2 linked disputes that I find collectively consist of a claim and counterclaim. So, I have issued 1 decision for both disputes.
2. North Mountain Construction Ltd. (North Mountain) says Shasheen Machine Ltd. (Shasheen) damaged a client's door while installing stairs. North Mountain says Shasheen unsuccessfully attempted a repair, then refused to replace the damaged door. North Mountain claims \$4,999 for door replacement and installation costs.
3. Shasheen does not dispute that it damaged the door, but says it was not given a reasonable chance to repair the damage and the door did not need to be replaced.
4. Shasheen also says North Mountain has refused to pay Shasheen for its work on other jobs. Shasheen counterclaims for \$2,170 for its outstanding invoices, which North Mountain agrees it has not paid.
5. North Mountain is represented by an authorized employee. Shasheen is represented by its owner.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.

8. 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.
9. 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.

ISSUES

10. The issues in this dispute are:
 - a. To what extent, if any, is Shasheen responsible to pay North Mountain \$4,999 for the damaged door replacement and installation costs?
 - b. To what extent, if any, is North Mountain responsible to pay Shasheen \$2,170 for its outstanding invoices?

EVIDENCE AND ANALYSIS

11. As the applicant in this civil proceeding, North Mountain must prove its claims on a balance of probabilities (meaning more likely than not). Shasheen has the same burden for its counterclaims. I have reviewed all the parties' submissions and evidence but refer only to what I find necessary to explain my decision.

North Mountain's claims

12. Shasheen undisputedly damaged North Mountain's client's front door when it attended to install steel stair stringers. North Mountain says Shasheen was given several opportunities to fix the door, but ultimately North Mountain replaced the

client's door. As noted, North Mountain collectively claims \$4,999 for the replacement cost and its time spent attempting to get Shasheen to remedy the situation.

13. Shasheen agrees that it damaged the door. However, Shasheen says the damage was limited to a small paint chip, and says it did an acceptable paint repair.
14. Shasheen says North Mountain's client's dog clawed at the repainted door before the paint had hardened, and also says it did not see the door afterwards. North Mountain did not deny this. North Mountain also did not provide a photograph or other evidence to show the door damage after Shasheen repainted it. Given the above, I find Shasheen attempted a repair, which was unsuccessful at least in part due to North Mountain's client's dog. Neither party provided a photo of the door after Shasheen repainted it, so it is unclear to what extent the paint repair would have been successful without the damage from the dog.
15. Shasheen says it also arranged to have the door repainted a second time with a ceramic coating and to protect the door area while it cured so the dog would not damage it but was not provided the opportunity to complete the work. While a contractor is generally entitled to a reasonable opportunity to return to a worksite and repair deficiencies with its work, here there is no allegation that Shasheen's stair stringer installation work was deficient. Rather, the issue is to what extent Shasheen is responsible to reimburse North Mountain for the door Shasheen undisputedly damaged, unrelated to its stair stringer installation work. Therefore, I find North Mountain was not required to provide Shasheen with an opportunity to fix the door damage itself.
16. However, North Mountain still has the burden of proving the damaged door slab required replacement, rather than just repainting. North Mountain says it is not fair for its client to accept a damaged door for a newly built home. As noted above, North Mountain did not provide evidence to show the extent of the damage either before or after Shasheen repainted the door. So, I find North Mountain has not proved that the entire door slab required replacement and is therefore not entitled to reimbursement for the cost of purchasing and installing the new door slab.

17. However, as noted, it is undisputed that Shasheen damaged the door. Shasheen itself provided two quotes to repaint the damaged door. One quote was for \$550, and the other was for \$940.40 to repaint the door with ceramic paint. Although North Mountain has not proved the door slab itself required replacement, I find Shasheen is undisputedly responsible to reimburse North Mountain for the cost of repainting the damaged door. There is no evidence of the door's condition or Shasheen's initial paint repair. However, Shasheen itself proposed repainting the door a second time with the ceramic paint, so I find it likely that some further repairs were required. Given this, I find the quote Shasheen provided to repaint the door with ceramic paint is the most appropriate measure of damages. I find North Mountain is reasonably entitled to \$940.40 for the cost to repaint the door.
18. North Mountain also claims for its employees' time spent attempting to remedy the situation. North Mountain provided a document that lists various time entries over several months for four employees. The time charges total \$2,231.52 for just over 30 hours of work, at hourly rates that range from \$50.48 to \$71.79. The entries indicate some of this time was spent discussing the door damage and repairs with its client and Shasheen in emails and meetings, as well as time spent arranging for the new door, and time spent submitting a claim. With respect to its claim for reimbursement of time spent corresponding with its client and Shasheen, it is unclear whether and to what extent North Mountain would have spent this time dealing with its client and Shasheen on the project at its client home in any event. As noted, the time entries total over 30 hours. I find North Mountain has not reasonably explained how or why it spent over 30 hours addressing one damaged door. So, I find North Mountain has not proved it is entitled to compensation for its time spent addressing the damaged door with its client and Shasheen before starting this dispute.
19. Finally, as noted, part of the time spent is recorded as "small claims court" and "submit claim", which I find is likely for time spent on this dispute. CRT rule 9.5(5) says that compensation for "time spent" is only awarded to a successful party in extraordinary circumstances. First, North Mountain was only partially successful. Second, I find this dispute did not involve complex or novel issues, and that extraordinary circumstances

do not exist here. So, I find North Mountain is not entitled to any compensation for time spent on this dispute.

Shasheen's counterclaims

20. Shasheen counterclaims for the following three unpaid invoices totaling \$2,170 at two other North Mountain jobs:

- a. February 15, 2022 invoice - \$1,120
- b. April 1, 2022 invoice - \$840
- c. May 3, 2022 invoice - \$210

21. North Mountain says it told Shasheen it would not pay the above invoices until the door dispute was rectified. North Mountain is not entitled to withhold payment for the invoices on this basis. Although the invoices list "North Mountain Holdings" as the customer, North Mountain does not dispute that it is responsible for these invoices, and has not paid them. North Mountain also did not dispute that Shasheen completed the work, and did not dispute any of the invoice charges. North Mountain also did not allege that there were any deficiencies. Therefore, I find North Mountain is responsible to pay Shasheen \$2,700 for its outstanding invoices.

Summary

22. I have found North Mountain is responsible to pay Shasheen \$2,700 for its outstanding invoices, and Shasheen is responsible to pay North Mountain \$940.40 for the damaged door. After accounting for the amount Shasheen owes for the damaged door, the outstanding amount North Mountain owes Shasheen for its unpaid invoices is \$1,759.60. I order North Mountain to pay Shasheen \$1,759.60.

Interest, CRT fees and expenses

23. The *Court Order Interest Act* applies to the CRT. Shasheen is reasonably entitled to pre-judgment interest on the \$1,759.60 from 30 days following its invoice dates to the date of this decision. This equals \$91.99, broken down as follows:

- a. \$60.89 in interest on \$1,120 from March 15, 2023, and
 - b. \$31.10 in interest on \$639.60 from May 1, 2023.
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 each had mixed success in this dispute, so I find it is not appropriate to order reimbursement of paid CRT fees to either party. Apart from North Mountain's claim for time spent which I have addressed above, neither party claimed any further dispute-related expenses, and I award none.

ORDERS

25. Within 30 days of the date of this order, I order North Mountain to pay Shasheen a total of \$1,851.59, broken down as follows:
- a. \$1,759.60 in debt, and
 - b. \$91.99 in pre-judgment interest under the *Court Order Interest Act*.
26. Shasheen 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.

Leah Volkers, Tribunal Member