



# Civil Resolution Tribunal

Date Issued: December 1, 2017

File: SC-2017-002581

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Northern LED Ltd. v. EarthStar LED Ltd.*, 2017 BCCRT 127

**B E T W E E N :**

Northern LED Ltd.

**APPLICANT**

**A N D :**

EarthStar LED Ltd.

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

### **INTRODUCTION**

1. This dispute is about whether the respondent EarthStar LED Ltd. (EarthStar) owes the applicant Northern LED Ltd. (Northern) an outstanding balance of \$4,967.46 plus interest. At issue is whether the applicant provided the type of lighting agreed upon. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

2. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
3. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing. Neither party requested an oral hearing.
4. The tribunal 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 tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
5. Under tribunal rule 121, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

6. The issue in this dispute is whether the respondent owes the applicant money under an outstanding invoice, and in particular whether the applicant provided the goods agreed upon between the parties.

## EVIDENCE AND ANALYSIS

7. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
8. Northern says it was hired in May 2017 by EarthStar's manager to supply and install lighting, and that it did so. The applicant submits the ultimate client CTC Logistics (CTC) is happy that CTC has paid EarthStar's bill for the services provided by Northern. While EarthStar says the quote it provided to CTC referenced products different than what Northern provided, Northern says it is not responsible for what EarthStar quotes its clients. I accept Northern's evidence and submissions in this respect, as detailed below.
9. In response, EarthStar says it quoted "Proven" brand products that come with a 5-year warranty. EarthStar says it does not want to be held liable in the next 5 years if there are warranty issues with the Northern brand that was installed. EarthStar says it is willing to refund CTC the whole amount paid, but only if Northern returns EarthStar's \$2,500.00 deposit that it says was paid to Northern "without director's knowledge or approval". No other evidence was provided by EarthStar to support this claim about the deposit being unapproved, and on balance I find EarthStar's authorized management at the time did approve the payment of this deposit to Northern, as discussed below.
10. Underlying this dispute is the fact that at the material time, EarthStar's general manager was Jason Hall. Since then, Jason Hall left EarthStar and now works with Northern. In an unsigned September 21, 2017 statement provided in evidence, Mr. Hall stated he was the sole decision maker for all operations and installations by EarthStar while he was its general manager. Mr. Hall states he approved Northern to provide the lights that it ultimately provided to both CTC and another customer Western Marine. Mr. Hall also states that the \$2,500.00 deposit was paid towards Northern's labour services for both jobs. Northern confirms this evidence and submits the \$2,500.00 deposit was a deposit for both the CTC job and another job

for Western Marine, so that Northern could get started. Neither Mr. Hall nor Northern provided a breakdown of how the \$2,500.00 was allocated between the CTC and Western Marine jobs.

11. Northern submits it will not refund the \$2,500.00 to EarthStar because it was also a deposit for the Western Marine job and also because EarthStar has failed to pay the outstanding invoice for the Western Marine job.
12. The documentary evidence before me is limited. Northern's undated quote to EarthStar for a total of \$3,320.00 states there is a 5-year warranty on LED lights. This quote does not mention a brand called "Proven". The lights are instead described as "LED HIGHBAY 200W 347V 5000K cUL DLC certified". The quote notes the materials cost is an estimate and "will be charged as actual upon completion". There is no mention of an interest rate on the quote. Northern separately provided a one-page document with the title "Five-Year LED Warranty".
13. On May 1, 2017, EarthStar issued a \$4,590.00 quote to CTC for "Proven HB-200J 200W 347V 5000K" lighting, along with disposal and labour costs.
14. Also on May 1, 2017, EarthStar paid Northern a \$2,500.00 deposit, as evidenced by a bank deposit screenshot provided in evidence. The screenshot does not indicate on its face what the deposit was for.
15. On May 5, 2017, Northern sent EarthStar's then manager Mr. Hall an appointment for May 9, 2017 for the CTC installation, with a note "10 x 200 w UFO's. Confirming if 347".
16. On May 8, 2017, EarthStar issued CTC an invoice for \$6,145.65, presumably for the installation done by Northern although this is not apparent from the face of the invoice. It is also unclear from the description whether EarthStar billed for "Proven" lighting, but nothing turns on this. The issue in this dispute is what was agreed upon between EarthStar and Northern. That said, on the evidence before me I accept that CTC paid EarthStar's invoice and has no objection to the job done by Northern.

17. On May 12, 2017, Northern sent an invoice to EarthStar for the CTC job, in the amount of \$4,264.96. There is no mention of the \$2,500.00 deposit. The LED lights invoiced are described as “LED Highbays 200W 347V” which I find matches Northern’s quote and reflects the email appointment note and EarthStar’s own quote to CTC, as noted above. There is no mention of the “Proven” brand.
18. On May 15, 2017, Northern invoiced EarthStar \$3,202.50 for the Western Marine job, with no reference to the \$2,500.00 deposit.
19. On May 24, June 2, 6, and 15, 2017, Northern’s account manager sent emails to EarthStar’s representative in this dispute, Firooz Qasimi, following up on the outstanding CTC and Western Marine invoices. The tribunal issued the Dispute Notice on June 15, 2017.
20. I acknowledge EarthStar quoted “Proven” lights to CTC, with a 5-year warranty. However, on the evidence before me I find that EarthStar accepted Northern’s quote for lights, which did not reference the Proven Brand and which carried their own 5-year warranty. There is no indication in the evidence before me that there was any objection made by EarthStar prior to the work being done and invoiced and no objection by CTC. I acknowledge EarthStar’s submission that Mr. Hall is in a conflict of interest. However, I find that Mr. Hall was authorized at the material time to enter into the contracts in question. I find EarthStar owes Northern for the balance owing on the CTC job, which is the invoice at issue in this dispute.
21. What about the \$2,500.00 deposit? EarthStar says the \$2,500.00 was paid towards the CTC job. Northern submits it was paid for both the CTC and Western Marine jobs, but does not attribute a particular amount for the CTC job. Northern submits that the entire \$2,500.00 should be deducted from the outstanding Western Marine invoice that EarthStar has not paid, which would still leave a balance owing of \$702.50 on it. In other words, Northern does not want any deduction made for the \$2,500.00 from the CTC invoice because the Western Marine invoice remains outstanding.

22. The challenge is that the Western Marine invoice is not part of this dispute, bearing in mind also the tribunal's monetary limit of \$5,000.00. On a balance of probabilities, I find that the \$2,500.00 was an advance payment towards Northern's labour costs for both the CTC and Western Marine jobs. Given the evidence and the parties' submissions about the deposit, I find the portion of that deposit attributable to the CTC job should be deducted from the CTC balance owing. That Northern may have a claim against EarthStar for balances owing for the Western Marine job may be the subject for another dispute but as noted it is not before me now. So, the question is to what extent the \$2,500.00 deposit should offset Northern's final invoice for the CTC job. Based on the total amounts of Northern's invoices for the two jobs, I find that 60% of the \$2,500.00 is attributable to the CTC job. Therefore, I find that \$1,500.00 should be deducted from the \$4,967.46 claimed, with a net amount of \$3,467.46 owing.
23. Nothing in this decision prevents the applicant from filing a separate dispute against the respondent with respect to any amounts remaining outstanding for the Western Marine job.
24. The applicant claims 2% interest, however there is no indication that this rate of interest was agreed to by the parties. It is not reflected in Northern's quote or its invoice. I dismiss the applicant's claim for 2% interest. As set out in my order below, the applicant is entitled to interest under the *Court Order Interest Act* (COIA), from the day the balance was due, which was May 12, 2017.
25. The applicant was successful in this dispute. In accordance with the tribunal's rules, I find the respondent must also pay the applicant \$175 as reimbursement for tribunal fees. There were no dispute-related expenses claimed.

## **ORDERS**

26. I order that, within 30 days of this decision, the respondent pay the applicant a total of \$3,655.96, comprised of:

- a. \$3,467.46 for the balance owing on the applicant's May 12, 2017 invoice 0003 to the respondent,
  - b. \$13.50 as pre-judgment interest under the *Court Order Interest Act* (COIA),
  - c. \$175.00 as reimbursement for tribunal fees paid.
27. The applicant is also entitled to post-judgment interest under the COIA.
28. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
29. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Shelley Lopez, Vice Chair