



Civil Resolution Tribunal

March 26, 2018

File: SC-2017-003624

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Prairie Auto Care v. McConnell Air Conditioning and Refrigeration Services BC Ltd.*, 2018 BCCRT 93

B E T W E E N :

Prairie Auto Care Ltd.

APPLICANT

A N D :

McConnell Air Conditioning and Refrigeration Services BC Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Catherine Sullivan

INTRODUCTION

1. The applicant Prairie Auto Care Ltd. provided auto repair services to the Respondent's 1999 GMC Savana work truck between December 2016 and

January 2017. The applicant wants payment of its \$3321.87 invoice for labour, parts and taxes.

2. The respondent McConnell Air Conditioning and Refrigeration Services BC Ltd. took possession of the Savana truck but did not make any payment. The respondent challenges the quality of the repairs.
3. Both the applicant and the respondent are self-represented. Richard Raffelsieper represented the applicant. The respondent was represented by its owner Tracey McConnell.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the tribunal. The tribunal has jurisdiction over small claims matters 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. The tribunal must apply legal principles and fairness to the parties. The tribunal recognizes that parties sometimes have pre-existing relationships that will continue after this dispute resolution process has concluded.
5. The tribunal has discretion to review and accept as evidence any information it considers relevant, necessary and appropriate, whether that information would be admissible in a court of law. The tribunal member may ask questions of the parties and the witnesses and may inform itself in any other way it considers appropriate.
6. The tribunal has discretion to determine the format of the hearing including receiving evidence in writing or email or by telephone or videoconferencing or a combination of any of these. I decided to receive evidence in this hearing through written submissions because there are no significant credibility issues in the evidence or other reasons that required an oral hearing.

7. Under tribunal rule 121, in resolving a dispute, the tribunal may make one or more of the following orders:
 - a. Order a party to do or stop doing something, or
 - b. Order a party to pay money and/or
 - c. Order any other terms or conditions the tribunal considers appropriate.

ISSUE

8. The issue in this dispute is whether the respondent must pay the \$3321.87 invoice claimed for the auto repair services provided by the applicant?

EVIDENCE AND ANALYSIS

9. This is a civil claim where the applicant must prove its claim on a balance of probabilities.
10. I have read and reviewed all the materials and evidence presented in the case. I am identifying only the evidence and arguments that I determined are relevant to explain the basis for my decision.
11. There is no dispute the respondent hired the applicant to provide auto repair services on the Savana truck in December 2016. The Savana truck would not start, had no heat and was in poor mechanical condition. It was a 17-year-old vehicle and had 304,455 kilometers on the odometer. The respondent gave the applicant verbal approval to replace the fuel pump so the engine would run.
12. The applicant identified a number of other necessary repairs to the lighting, the brakes, transmission shocks, ball joints, springs, wheel bearings and the rear calipers. There were several discussions about these other repairs. I find the applicant recommended the respondent should replace the Savana truck as the cost of all the required repairs would exceed the cost to buy a replacement vehicle. The respondent's owner Scott McConnell rejected that advice and told the applicant to only perform minimal repairs as the business only needed the vehicle

to be roadworthy for the next three months. The respondent co-owner Tracey McConnell in her submissions does not dispute the respondent authorized the applicant to perform the additional repair work.

13. The applicant performed a tune up, installed a water pump and replaced a number of defective parts. The applicant says the respondent knew that the Savana truck would remain in poor running order despite the repairs. The Savana truck still had engine compression failure and multiple engine oil and coolant leaks that were not repaired or resolved.
14. The applicant completed the repair work and issued a three-page invoice #025978 for the total bill of \$3321.87 which is the claimed amount in this dispute. It includes a detailed description of the replacement cost and the amount of labour for each defective part. The bill included a breakdown of \$1392.52 for parts and \$1533.40 for labour costs.
15. The respondent took possession of the Savana truck but did not pay any portion of the invoice. The applicant had performed vehicle service work for the respondent in the past and fully expected the payment would be made. Over the next 6 months, the applicant made many requests for payment both in person at the respondent business address and through phone messages that were not returned.
16. Sadly, and unexpectedly, the respondent owner Scott McConnell passed away in April 2017. After that date, his wife Tracey McConnell assumed sole responsibility for the business.
17. In June 2017, the applicant asked a work colleague to contact Tracey McConnell to request payment. Evidence was presented about a difficult conversation between them. The tone was hostile and accusations about stalking and libelous statements were exchanged. Both parties filed separate Police file reports. I make no finding about what was said during that conversation as it does not assist me to

decide whether the respondent must pay the invoiced amount. The applicant filed the Small Claims Dispute Notice on July 27, 2017.

18. The respondent raises a number of objections and defences to the claim. The first issue was whether the repair work was performed in in December 2016 or January 2017. I find the exact date of the repair services is not materially significant. The Savana truck was transported to the applicant's shop on December 16, 2016. Invoice #025978 was issued on January 31, 2017. I find the repair services were provided between December 16, 2016 and January 31, 2017.
19. The respondent also questions the quality of the repair services. The respondent says the Savana truck has leaked since it left the shop and there is no evidence the repair work was done. The respondent provided a handwritten note dated October 17, 2017 from "Zachary Beaudoin – Second Opinion". Mr. Beaudoin provided comments about his inspection of the interior of the Savana truck. I find Mr. Beaudoin's comments about the truck's interior do not assist me in determining whether the applicant has proven its claim.
20. The respondent provided an email from an employee who stated the Savana truck was leaking coolant and gas in February, 2017. I find this evidence is not materially relevant because the respondent knew the leak problems were not resolved when the Savana truck left the applicant's shop.
21. The respondent says the applicant's service work was inadequate and improperly performed. However, this argument does not fit with the fact the respondent never once contacted the applicant to complain or question or challenge the repair work or the invoice. The evidence shows the respondent ignored, avoided and evaded any contact with the applicant and all requests for payment over the next 5 months. I conclude the lack of communication likely means the respondent had no concerns about the service work until it was pressed to pay the invoice when this legal proceeding began. On balance, I cannot find the evidence supports the respondent's argument the applicant failed to provide appropriate repairs in relation to the invoice.

22. There are two additional facts the respondent says should affect the claim. The respondent says it was overcharged by the applicant for the purchase of a NAPA Roadside Assistance program and the applicant installed defective parts in another work vehicle. Evidence about the NAPA Roadside Assistance program and/or repairs to a second vehicle is not relevant to the issue in this dispute, which is whether the respondent must pay the invoiced amount for the Savana truck repairs that I have found were appropriately completed.
23. I find the applicant has proved, on a balance of probabilities that it provided repair services to the respondent as agreed and that it billed for those services and received no payment. The Applicant is entitled to payment of the \$3321.87 invoice.
24. Under section 49 of the Act and the tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees. As the applicant was successful in this dispute, I order the respondent to pay the applicant \$175 as reimbursement for tribunal fees and \$8.58 for a corporate search fee as a reasonable dispute-related expense.
25. The applicant is also entitled to pre-judgment and post-judgment interest under the *Court Order Interest Act (COIA)* as set out in my order below.

26. ORDERS

27. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$3524.80, broken down as follows:
 - (a) \$3321.87 for invoice #025978;
 - (b) \$19.35 as pre-judgment interest under the COIA calculated from July 27, 2017;
 - (c) \$175.00 for tribunal fees and \$8.58 for dispute-related expenses.
28. The applicant is also entitled to post judgment interest, as appropriate.

29. 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.
30. 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 it is an approved consent resolution order, or, 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.

Catherine Sullivan, Tribunal Member