



Civil Resolution Tribunal

Date Issued: May 25, 2018

File: SC-2017-003890

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Trueman v. Thind*, 2018 BCCRT 202

BETWEEN:

Mark Trueman

APPLICANT

AND:

Ranjit Thind

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about whether the respondent Ranjit Thind owes \$140 to the applicant contractor, Mark Trueman, for electrical services provided at the respondent's rental property. 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 126, 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.
6. I note the respondent's tenant provided a statement, which is discussed below, and in it she said that she wants compensation for being left at risk for fire by the applicant. The tenant has not applied to the tribunal and I have no proper claim from her before me. I will therefore make no further comment about the tenant's claims. At the same time, I note the parties' cross-allegations about libel and slander (defamation) are not relevant to this debt dispute. In any event, defamation is outside the tribunal's jurisdiction.

ISSUES

7. The issue in this dispute is whether the respondent owes the applicant \$140 for electrical services provided, or, whether the respondent was entitled to charge back that amount to the applicant for deficiencies the respondent had corrected by another electrician.

EVIDENCE AND ANALYSIS

8. 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.
9. It is undisputed that the applicant's July 19 and 20, 2017 electrical job for the respondent was to address safety issues. It is also undisputed that the applicant charged \$39 per hour, plus GST and the cost of any materials.
10. The applicant says that at the end of the 1.5 day job there were some deficiencies, which he says can arise from time to time. Based on the evidence before me, I find there were at least 2 deficiencies: 1) an outside light failed to turn on, and 2) a 3-way hallway light circuit or switch was not working properly.
11. The applicant must prove he fulfilled his electrical contract in order to get paid. An implied condition of the parties' agreement is that the work is performed to a satisfactory level.
12. The applicant says he was not given a chance to remedy the deficiencies, which the applicant says is expected. The applicant says that another electrician charged the respondent \$140 to fix the deficiencies as well as the new work of replacing the junction box. Based on the respondent's evidence, the other electrician fixed the issues in 3 hours.
13. I turn now to the relevant chronology, which is brief. On July 22, 2017, the respondent emailed a reply to the applicant's July 21, 2017 email that had demanded \$412 and threatened "legal action" if payment was not provided within

24 hours. The respondent wrote that the applicant had not finished the job, and he had not fixed “the 3-way switch” and he “screwed up outside exterior light”. The respondent wrote that he had to hire another licensed electrician to finish the job. After an exchange clarifying the applicant’s original quote was \$387, the respondent emailed later on July 22, 2017 “So 387.00 - \$140.00= \$247.00. If you agree I can give you check”.

14. On July 23, 2017, the applicant emailed back asking when and where he should pick up the check. The respondent replied, asking for an invoice that included the applicant’s explanation that he did not finish the work.
15. The applicant’s original July 23, 2017 invoice for \$387.08 was for 8.5 hours and \$64 for materials, less a \$25 “special customer discount”. Based on the respondent’s tenant’s evidence, which the applicant did not specifically dispute other than to say it was full of “untruths”, I find 4 hours of the 8.5 hours was claimed travel time. Based on the overall evidence before me, I find that the applicant worked 3 hours on July 19 and about 1.5 hours on July 20, 2017. This “original” invoice noted the property was left with “2 corrections needed” and that the respondent had called in another electrician to correct them, along with replacing a utility room junction box.
16. The applicant says he did not agree to the reduced \$247 figure, but he provided a revised invoice because he needed at least the partial payment for financial reasons. The applicant titled his July 23, 2017 invoice for \$247 “An invoice as you would like it seen”.
17. The issue here is really whether the respondent was required to give the applicant the opportunity to correct the admitted deficiencies. I find the applicant’s revised invoice \$247 means the applicant agreed to abandon a claim for anything more.
18. In particular, in his Dispute Response, the respondent also said that he paid the applicant \$247 “as agreed” and that the applicant should have told the respondent he did not agree and not cashed the cheque. Based on the evidence before me, I

agree. I do not accept any suggestion that the \$247 was reasonably treated as a partial payment. The applicant never told the respondent that he should have been given the opportunity to correct the deficiencies and instead just asked when and where he could pick up the cheque. The applicant's title of the revised invoice "as you would like it seen" is not determinative.

19. Even if I am incorrect that the \$247 was the revised agreed amount, I find the applicant has not proven he should have been given further opportunity to fix the 3-way switch, which I find is the most significant item.
20. The respondent provided an "August 2017" statement from his tenant, who the respondent paid \$35 to "oversee" the applicant's work in terms of making sure he generally did the jobs he was hired to do. The applicant did not specifically dispute the respondent tenant's evidence that the applicant spent about 4.5 hours trying to fix the 3-way switch, which is one of the admitted deficiencies. The other electrician fixed the 3-way switch, and based on the tenant's statement also fixed open hot wires and now-dead wires that were left by the applicant.
21. Based on the respondent's evidence, including the tenant's statement, I find that the \$140 at issue reasonably reflects the applicant's wasted time spent on the 3-way switch. I find that in the circumstances, the applicant was given a reasonable amount of time to fix the 3-way switch on the days he worked on the job. I find the applicant has not proved he is entitled to that claimed amount, given my conclusions above.
22. In accordance with the tribunal's rules, as he was unsuccessful in this dispute I find the applicant is not entitled to reimbursement of tribunal fees or dispute-related expenses.

ORDER

23. I order that the applicant's dispute is dismissed.

Shelley Lopez, Vice Chair