



# Civil Resolution Tribunal

Date Issued: November 2, 2018

File: SC-2017-006638

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Motosel Industrial Group Inc. v. 358671 B.C. Limited dba Northstar Truck & Auto Repair et al*, 2018 BCCRT 680

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

Motosel Industrial Group Inc.

**APPLICANT**

**A N D :**

358671 B.C. Limited dba Northstar Truck & Auto Repair and Chandra  
P. Nand

**RESPONDENTS**

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## **REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

- 1) The applicant, Motosel Industrial Group Inc., claims \$1,978 for unpaid invoices, plus contractual interest at the rate of 34.48% per year. The applicant is represented by Heather Vickers, an employee.
- 2) The respondent Chandra P. Nand owned and operated the respondent business, 358671 B.C. Limited dba Northstar Truck & Auto Repair (Northstar). The applicant had originally named the respondent business as "... dba Northside Truck & Auto Repair". Before this dispute was submitted for a decision, an issue arose about the corporate respondent's correct name. Mr. Nand ultimately stated that Northside was equally correct. Given the credit application was completed by, and the invoices were addressed to, "Northstar Truck & Auto Repair", I find that is the appropriate "dba" in the respondent's name, and I have amended the style of cause accordingly.
- 3) Mr. Nand represents the respondents. Mr. Nand admits he owes the applicant money, but says he needs a payment plan.

## **JURISDICTION AND PROCEDURE**

- 4) 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.
- 5) The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. 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. I find I am able to reasonably resolve this dispute based on the documentary evidence and written submissions before me.

- 6) 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.

## **ISSUE**

- 7) The issue in this dispute is what is the appropriate order for payment for the applicant's outstanding invoices.

## **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 the applicant properly delivered goods to the respondents. It is also undisputed that the respondents have not paid the applicant's invoices. As noted above, the applicant's invoices were to Northstar. The first invoice #15873, dated August 23, 2016, is for \$1,333.50. The applicant paid \$1,000 as a partial payment on February 5, 2017 against invoice #15873, but otherwise has not paid anything. The second invoice #16366, dated September 27, 2016 is also for \$1,333.50. The third invoice #16920, dated November 2, 2016, is for \$312.90. Each of the invoices have "net 30" terms.
- 10) Mr. Nand completed the applicant's credit application on behalf of Northstar. There is no evidence that Mr. Nand provided a personal guarantee.
- 11) The respondent does not dispute the claimed interest rate of 34.48% on their outstanding invoice balances, totalling \$1,978.00. The credit application completed by Mr. Nand sets out the applicable interest rate in item #2. The credit application terms were repeated at the bottom of the applicant's invoices.

12) The substance of Mr. Nand's submission is as follows:

I don't deny I owe money but need a plan to pay it. Simple. ...

We will honour our invoices and charges by Motosel but we need a payment plan as we are no longer operating. Please allow a payment plan for 500 per month until claim is paid [commencing] with Payment by chk Sep 20, 2018

13) That submission was provided to the tribunal before September 20, 2018. I am not aware if any payment was made.

14) I find Northstar is liable to pay the applicant the claimed \$1,978. I note the outstanding invoice balances total \$1,979.90, but as the applicant only claimed \$1,978 I order that lesser amount. Northstar is also entitled to pre-judgment interest on the \$1,978, at the agreed 34.48% contractual rate, as set out in my order below. I have calculated the interest individually on each of the 3 invoices (applying the \$1,000 payment as noted above), based on their respective due dates.

15) I dismiss the applicant's claims against Mr. Nand personally, as he did not complete the credit application in his personal capacity and, as noted, there is no evidence he provided a personal guarantee. The invoices were made out only to Northstar.

16) As the applicant was successful, in accordance with the Act and the tribunal's rules I find it is also entitled to reimbursement of \$125 in tribunal fees. The applicant is also entitled to reimbursement of \$37.54 in dispute-related expenses for registered mail and courier delivery of the Dispute Notice. The applicant also asked for an order that the respondent pay the applicant's administrative fees, but as this was not explained I have made no order about it.

17) Finally, I turn to Mr. Nand's request for a payment plan. I find Mr. Nand's proposal is inappropriate, as I agree with the applicant that it is entitled to judgment and the applicant can pursue enforcement, through a payment plan or a court proceeding, afterwards.

## ORDERS

- 18) I dismiss the applicant's claims against the respondent Chandra P. Nand.
- 19) Within 14 days of this decision, I order the respondent Northstar to pay the applicant a total of \$3,517.49, broken down as follows:
  - a) \$1,978 as payment of the applicant's invoices,
  - b) \$1,376.95 in contractual interest at the rate of 34.48% per annum,
  - c) \$162.54, for \$37.54 in dispute-related expenses and \$125 in tribunal fees.
- 20) The applicant is entitled to post-judgment interest under the COIA, as applicable.
- 21) 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.
- 22) 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.

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Shelley Lopez, Vice Chair