



Civil Resolution Tribunal

Date Issued: November 2, 2018

File: SC-2018-000605

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Canada Minibins.com Ltd v. House*, 2018 BCCRT 681

B E T W E E N :

Canada Minibins.com Ltd

APPLICANT

A N D :

Doug House

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

- 1) The applicant, Canada Minibins.com Ltd, claims \$2,926.75 for 2 invoices it says the respondent, Doug House, owes for bins he rented. The respondent denies he had any contract with the applicant, and also says the applicant grossly overcharges for

its bins. The applicant is represented by Philana Senetza, an employee or principal. The respondent is 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. 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.
- 4) 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

- 5) The issue in this dispute is whether the respondent owes the applicant for the claimed bin rental invoices totaling \$2,926.75.

EVIDENCE AND ANALYSIS

- 6) 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.
- 7) The applicant claims payment of 2 invoices: 1) #25257 dated April 6, 2017 for \$12.50, and 2) #28368 dated October 3, 2017 for \$2,914.25. The applicant provided copies of those invoices, visa receipts, an “order form”, and April 13 and September 7, 2017 emails exchanged with the applicant. The respondent did not provide any evidence, but as discussed below he did provide brief submissions.
- 8) It is undisputed there is no written contract between the parties. The applicant submits that on April 6, 2017, the respondent ordered a 12-yard bin for disposal services, at a cost of \$250 for delivery and removal, plus \$139 per metric tonne of disposal cost. Plus, the respondent agreed to a weekly \$75 rental charge after the first week of service. The applicant’s Order Form in evidence supports this description.
- 9) In his Dispute Response filed at the outset of this tribunal proceeding, the respondent simply denied any contract with the applicant. In his submissions for this decision, the respondent acknowledges that he made a verbal agreement with the respondent’s representative B. The respondent says the bin rental was agreed at \$75 per month, plus dump fees.
- 10) The respondent alleges the applicant has charged over \$700 to his credit card without his consent. Yet, it is undisputed that the respondent gave the applicant his credit card number for the purpose of the bin rental. The applicant says it charged the credit card on April 6, 2017 for \$250 as a deposit on the order. As noted above, the applicant’s invoice 25257 is dated the same day, which shows the order and the deposit paid, leaving the claimed \$12.50 balance.
- 11) It is undisputed that the applicant delivered the rental bin to the respondent’s house on April 7, 2017.

- 12) It is also undisputed that the rental bin sat on the respondent's property for several months. The applicant contacted him about removing it several times, and on September 7, 2017, the respondent emailed back "No thanks". The applicant says its phone calls went unanswered, and so it assumed the respondent still wanted to rent the bin.
- 13) After not receiving return calls or emails from the respondent, the applicant took 3 "deposits" totaling \$850 on October 3, 2017, charged to the applicant's credit card, to cover some of the bin rental cost, which by that point would have totaled \$1,800. The respondent did not dispute the credit card charge at that time. The applicant says it could not charge the full amount due because the credit card kept getting rejected and then expired in October 2017.
- 14) Finally, on December 19, 2017, the applicant picked up its rental bin and says that on servicing it noticed it had medical waste and needles in it. The applicant notes that the respondent is the general manager of a medical services company. Given the hazardous contents that were not permitted in the landfill, the applicant says it "left the contents of the bin at his address to clean up and removed the bin". The same day, the respondent and the police asked the applicant to return and clean up the bin's contents, which the applicant did on December 19, 2017.
- 15) The respondent says the applicant dumped the bin's contents in his driveway, which prompted the policy and the City of Delta to require the applicant to clean it up. The respondent denies there was any medical waste in the bin. I find nothing turns on whether there was medical waste or not, but the episode is evidence of why things came to a head at that point.
- 16) The respondent's evidence is that the bin rental was \$75 per month, rather than \$75 per week, with no additional delivery or disposal costs. The respondent's central defence is that the applicant provided no monthly invoice and their statement, which he says he only got at the start of this proceeding, was not itemized. The respondent says had it provided periodic invoices, he would have realized the

applicant was charging him more than \$75 per month as he says was quoted to him by B, and would have disputed it at the time.

- 17) The applicant says the respondent never asked for interim statements, and that the applicant told him at the outset that he would get an invoice for all services upon the bin's removal at the end of the service.
- 18) While a written agreement is easier to prove, if proven, a verbal agreement is enforceable. On balance, I prefer the applicant's version of events about the rental bin agreement. I say this because the applicant never disputed the credit card charges, either on April 6, 2017 or the 3 separate charges made on October 3, 2017. I also find it unlikely that the applicant would have offered the 12-yard rental bin for as little as \$75 per month, and with no separate charges for the delivery and pick-up/disposal. Further, the respondent does not deny he failed to respond to the applicant's many calls and emails, which I find supports a conclusion he was avoiding payment.
- 19) I find the applicant is entitled to the claimed \$2,926.75 for the outstanding invoices #28368 and #25257. The applicant is entitled to pre-judgment interest on this amount, under the *Court Order Interest Act* (COIA) from October 3, 2017.
- 20) 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.

ORDERS

- 21) Within 14 days of this decision, I order the respondent to pay the applicant a total of \$3,088.75, broken down as follows:
 - a) \$2,926.75 for payment of the applicant's invoices,
 - b) \$37.00 in pre-judgment interest under the COIA, and
 - c) \$125 in tribunal fees.

- 22) The applicant is entitled to post-judgment interest under the COIA, as applicable.
- 23) 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.
- 24) 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.

Shelley Lopez, Vice Chair