



Civil Resolution Tribunal

Date Issued: December 4, 2018

File: SC-2018-003499

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Saniuk v. R 629 ENTERPRISES LTD. doing business as (DBA)
RealestateLead.ca, 2018 BCCRT 806*

B E T W E E N :

Jordan Saniuk

APPLICANT

A N D :

R 629 ENTERPRISES LTD. doing business as (DBA)
RealestateLead.ca

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Volk

INTRODUCTION

1. This dispute is about the cancellation of an ongoing contract for service and whether advertising was misleading. The applicant, Jordan Saniuk, was starting a real estate

business and he hired the respondent, R 629 ENTERPRISES LTD. doing business as (DBA) RealestateLead.ca, to provide real estate leads.

2. The applicant asks for a \$1,049.99 refund, being the fee after taxes for the final month of service.
3. The applicant represents himself. The respondent is represented by a principal or employee.

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 relationships between parties that may continue after the dispute resolution process has ended.
5. The tribunal may decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. I find that I can fairly resolve this dispute by writing based on the documents and written positions before me because there are no significant issues of credibility or other reasons that may require an oral hearing.
6. The tribunal may accept as evidence information that it considers relevant, necessary, and appropriate, whether 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.
7. 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

8. Is the applicant entitled to a refund because of deceptive acts or practices?

EVIDENCE AND ANALYSIS

9. The applicant bears the burden of proof on a balance of probabilities. I have commented upon the relevant evidence and submissions only to the extent necessary to give context to these reasons.
10. Based on a review of the evidence, I find that the respondent is, in part, in the business of offering the personal information of potential new real estate clients for a fee. The respondent calls that information real estate leads. As a part of this service, the respondent offers different program options.
11. In October 2017 the applicant signed up for one of the respondent's programs for 40 to 60 real estate leads per month.
12. In February 2018 the applicant cancelled the service and asked for a refund of the final month's fee due to low real estate leads. The respondent refused the requested refund because there was still time to provide the promised number of monthly real estate leads. It is undisputed that the respondent provided the monthly real estate leads by the end of the contract term.
13. The applicant says that the respondent did not provide the service advertised and relies on sections 4, 5 and 171 of the *Business Practices and Consumer Protection Act* (BPCPA) for the claim. Specifically, the applicant says that the respondent's advertising was misleading because he says it promised daily leads and no contracts.
14. The respondent says that it provided the service set out in the applicant's contract. In reply to the BPCPA provisions, the respondent says that it does offer the services advertised but that the respondent chose a different program.

15. The BPCPA regulates consumer transactions. The transactions here were not consumer transactions as defined in the BPCPA because they were not between a person who supplies services in the course of business and an individual whose primary purpose is personal, family, or household. The applicant admits that he engaged the respondent's services to support a new real estate business. The applicant's primary purpose was therefore not personal, family or household and consequently his transaction with the respondent was not a consumer transaction as defined in the BPCPA.
16. The applicant did not claim for breach of contract. Given that the applicant says he did not receive what was promised, I considered whether a breach occurred. I find that daily real estate leads were not an agreed term of the contract. The contract was for 40 to 60 real estate leads monthly, which the respondent provided. Further, the applicant agreed to terms that clearly stated that the service had a 3-month minimum. He was reminded of this requirement part way through and choose to continue the contract.
17. I dismiss the applicant's claims.
18. As the applicant was unsuccessful, in accordance with the Act and the tribunal's rules, I also dismiss his claim for reimbursement of tribunal fees.

ORDERS

19. I dismiss the applicant's claims and therefore this dispute.

Megan Volk, Tribunal Member