



Civil Resolution Tribunal

Date of Original Decision: January 18, 2019
Date of Amended Decision: February 1, 2019

File: SC-2017-007031

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *gordon wall ltd v. Schroder*, 2019 BCCRT 75

B E T W E E N :

gordon wall ltd

APPLICANT

A N D :

Kandy Schroder

RESPONDENT

AMENDEDⁱ REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a final decision of the Civil Resolution Tribunal (tribunal), but it is not a decision on the merits of the applicant's claim. The issue is whether the applicant gordon wall ltd. is out of time to bring its debt claim against the respondent Kandy Schroder for purchases made in May 2015.

2. The applicant is represented by Harvie Hurd, an employee or principal. The respondent is self-represented.

JURISDICTION AND PROCEDURE

3. These are the tribunal's formal written reasons. The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal 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.
4. 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.
5. 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.
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.

ISSUES

7. The issue in this dispute is whether the applicant is out of time to bring its claim against the respondent.

EVIDENCE AND ANALYSIS

8. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision. For the reasons that follow, I dismiss the applicant's claim.
9. On May 19, 2015 and May 25, 2015, the respondent ordered paint and related equipment from the applicant. At the time, the respondent was a tenant of Columbia Valley Greenhouses Ltd. (CVG). The applicant initially invoiced CVG for the 2 purchases.
10. On October 27, 2015, CVG informed the applicant by email that the invoices were the respondent's responsibility to pay, not theirs.
11. The Dispute Notice was issued on December 1, 2017.
12. The *Limitation Act* applies to disputes before the tribunal. A limitation period is a time period within which a person may bring a claim. If that period expires, the right to bring the claim ends, even if the claim would have been successful.
13. In British Columbia, the current *Limitation Act* came into effect on June 1, 2013. It says that a debt claim must be started within 2 years of the day it was discovered, which is the first day a person had knowledge of the matters in the claim or reasonably ought to have known about the claim.
14. The applicant says it discovered the claim against the respondent on October 27, 2015, which is the date it received the email from CVG. The respondent does not dispute this. I find the 2-year limitation period applies to the applicant's claim. Since the Dispute Notice was issued on December 1, 2017, I find the dispute was started outside the 2-year limitation period.
15. I note that section 24 of the *Limitation Act* says a limitation period may be extended if a person acknowledges liability before the expiry of the limitation period. However, there is no evidence the respondent acknowledged liability for the debt.

16. I find the dispute is out of time because it is statute-barred by the *Limitation Act*. I dismiss the applicant's claims and this dispute in accordance with section 46 (1) (a) of the Act. I note my decision to dismiss the dispute is based not on the merits of the applicant's claim, but solely on the fact that the applicant started the dispute too late.
17. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. The applicant was unsuccessful, and the respondent has not incurred any fees, so I decline to make such an order.

ORDERS

18. I dismiss the applicant's claims and this dispute.

Sarah Orr, Tribunal Member

ⁱ Amendment Note: The dispute file number in the original decision contained a typographical error. The decision has been corrected pursuant to section 64 of the *Civil Resolution Tribunal Act* to reflect the correct file number for this dispute.