



# Civil Resolution Tribunal

Date Issued: February 13, 2019

File: SC-2018-003419

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sandhuz Trucking Incorporated v. Jagjit Dhaliwal (dba NRS Dhaliwal Trucking) et al*, 2019 BCCRT 172

B E T W E E N :

Sandhuz Trucking Incorporated

**APPLICANT**

A N D :

Jagjit Dhaliwal (Doing Business As NRS Dhaliwal Trucking), NRS Contracting LTD., and J. Cote & Son Excavating LTD.

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Sarah Orr

## INTRODUCTION

1. This is a dispute about dump trucks. The applicant, Sandhuz Trucking Incorporated, says the respondents Jagjit Dhaliwal (Doing Business As NRS Dhaliwal Trucking) (Dhaliwal), NRS Contracting LTD. (NRS) and J. Cote & Son Excavating LTD. (J.

Cote) owe it \$4,368 for the provision of 2 dump trucks. J. Cote does not deny that it owes the applicant the amount claimed. J. Cote offered to pay the applicant \$4,368, but the applicant declined the offer because it was contingent on the applicant signing a waiver absolving J. Cote from liability for accrued interest and expenses.

2. The applicant and J. Cote are represented by employees or principals. Neither Dhaliwal nor NRS participated in the tribunal process, despite being properly served. I have assessed their liability below.
3. The applicant initially named itself as Sandhuz Trucking Incorporation, however the applicant and J. Cote agree that the applicant's correct name is Sandhuz Trucking Incorporated. I order that the style of cause is amended accordingly.

## **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 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.
5. 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.
6. 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.

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.

## **ISSUES**

8. The issue in this dispute is whether the respondents owe the applicant \$4,368 for its provision of dump trucks.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim like this one, the applicant must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicant's position is correct.
10. J. Cote filed a Dispute Response and made brief submissions but chose not to provide evidence. The other 2 respondents Dhaliwal and NRS were served with the Dispute Notice but did not provide Dispute Responses or participate in the tribunal process. I find this means the respondents Dhaliwal and NRS are in default, and their liability is assumed.
11. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision.
12. It is undisputed that the applicant supplied 2 dump trucks to the respondents, 1 of which they used on 7 different days in April 2017. The applicant says Dhaliwal and NRS acted as the dispatch between it and J. Cote, its customer. Pursuant to the applicant's standard operating policy to invoice the dispatcher for services it provides, in April 2017 the applicant invoiced Dhaliwal and NRS \$4,368 for J. Cote's use of the dump truck. The applicant says it only invoices the customer directly when instructed to do so by the dispatcher. The applicant says in October 2017 a representative of Dhaliwal and NRS instructed it to invoice J. Cote directly, which it did in October 2017.

13. J. Cote says it hired NRS to supply it with dump trucks, and that the applicant is J. Cote's subcontractor. J. Cote does not deny that it owes the applicant the amount claimed. In its Dispute Response J. Cote said it required written authority from Dhaliwal and NRS to pay the applicant directly, and that it had not received authorization to do so. J. Cote subsequently offered to pay the applicant \$4,368, but the applicant declined the offer because it was contingent on the applicant signing a waiver absolving J. Cote from liability for accrued interest on the amount owing and for any of the applicant's expenses.
14. For the following reasons, I find the respondents are jointly and severally liable to pay the applicant \$4,368. The applicant initially invoiced Dhaliwal and NRS, as per its standards policy. Since both Dhaliwal and NRS are in default they are assumed to have accepted liability for the applicant's claim. The applicant invoiced J. Cote pursuant to the instructions of Dhaliwal and NRS, and J. Cote does not dispute liability for the amount claimed. I find the applicant is entitled to pre-judgment interest under the *Court Order Interest Act*. The applicant says it usually receives payment of its invoices within 2 months, and therefore I find pre-judgment interest is to be calculated from July 1, 2018.
15. 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. I see no reason in this case not to follow that general rule. Since the applicant was successful I find it is entitled to reimbursement of \$175 in tribunal fees. The applicant claims \$41.62 for the expense of serving the Dispute Notice on the respondents. I find this is a reasonable expense in the circumstances, and I find the applicant is entitled to \$41.62 in dispute-related expenses.

## **ORDERS**

16. I order the applicant's name in the style of cause is amended to Sandhuz Trucking Incorporated.

17. Within 14 days of the date of this order, I order the respondents to pay the applicant a total of \$4,626.82, broken down as follows:
- a. \$4,368.00 for payment of the applicant's invoice,
  - b. \$42.20 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$216.62, for \$175 in tribunal fees and \$41.62 for dispute-related expenses.
18. The applicant is entitled to post-judgment interest, as applicable.
19. 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.
20. 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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Sarah Orr, Tribunal Member