



Civil Resolution Tribunal

Date Issued: March 8, 2019

File: SC-2018-002461

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Rivendell Ventures Inc. v. Excellent Hearing Clinic Inc.*, 2019 BCCRT 283

B E T W E E N :

Rivendell Ventures Inc.

APPLICANT

A N D :

Excellent Hearing Clinic Inc.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This is a dispute about payment for work performed on a design project. The applicant, Rivendell Ventures Inc., says that the respondent, Excellent Hearing Clinic Inc., has refused to pay its final invoice. The applicant seeks an order that the respondent pay it \$1,460.75. The respondent says that there were inaccuracies in the invoice and that the applicant engaged in unethical and unprofessional conduct.

2. The applicant is represented by its principal, Timothy Chan. The respondent is represented by Chi Nin Li, who I infer is an employee or principal.

JURISDICTION AND PROCEDURE

3. 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* (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 on the material facts 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 make one or more of the following orders:
 - a. order a party to do or stop doing something;
 - b. order a party to pay money;
 - c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

7. The issue in this dispute is whether the respondent is responsible for the applicant's invoice in the amount of \$1,460.75.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, an applicant bears the burden of proof on a balance of probabilities. The parties provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only that which is necessary to provide context to my decision.
9. In July of 2017, the parties entered into a design contract for the respondent's retail location. The applicant also performed some project management services which were not included in the design fee and for which it billed the respondent at a rate of \$140.00 per hour. Although the design contract contemplated the possibility that the parties would enter into a separate agreement for the construction phase of the project, this did not occur.
10. The respondent decided to terminate the design contract with the applicant in September of 2017.
11. The applicant issued its final invoice to the respondent on September 19, 2017. The charges on invoice 7228 were \$6,924.00 plus taxes, for a total of \$7,270.20. This invoice included charges for project management services and tiles that the respondent had ordered for the project. Later, the applicant was able to obtain a full refund from the vendor for the tiles, and it is no longer pursuing this amount. The applicant also decided to remove the charge for project management services. However, the parties were unable to come to an agreement about the appropriate amount owing to the applicant.
12. During the tribunal's facilitation process, the respondent questioned the calculation of the invoice. The applicant advised that he had inadvertently charged tax on the \$521.00 fee for the building permit when no tax was paid on this item. He provided

a revised invoice that removed this charge. The revised invoice sets out \$840.00 for the outstanding portion of the design fee and associated taxes, \$521.00 for the City of Richmond's building permit fee, and \$99.75 in printing fees. The applicant seeks an order that the respondent pay that invoice total, namely \$1,460.75.

13. The respondent says it never refused to pay the applicant, but says the applicant tried to overcharge it by adding taxes to the invoice, when in fact no taxes had been paid. The respondent states that the applicant also provided false information to the tribunal in this regard. The respondent accuses the applicant of unethical and unprofessional conduct, and takes the position that it should not have to pay the \$1,460.75 claimed by the applicant or reimburse its tribunal fees as such a payment would encourage the applicant's behaviour.
14. It is apparent that there were some miscommunications or misunderstandings between the parties, and that their relationship broke down before the project was completed. Neither this nor the applicant's error in charging taxes alters the parties' responsibilities under their agreement. There is no indication that the applicant intentionally inflated the invoice for profit, and this is not a reason for the respondent not to pay the revised invoice.
15. With the exception of the erroneously charged taxes (which have been removed from the revised invoice), the respondent does not dispute that the applicant performed the work or incurred the expenses claimed. The parties' contract contemplated the payment of the final portion of the design fee, plus any applicable expenses, after the City approved the permit. The City of Richmond approved the building permit on August 9, 2017, and the outstanding amounts became payable to the applicant at that time.
16. I find that the applicant is entitled to payment of its revised invoice as claimed. The respondent must pay the applicant \$1,460.75. The applicant is also entitled to pre-judgment interest under the *Court Order Interest Act* (COIA) of \$27.18.

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. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175.00. There was no claim for dispute-related expenses.

ORDERS

18. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$1,662.93, broken down as follows:
 - a. \$1,460.75 in payment of the invoice,
 - b. \$27.18 in pre-judgment interest under the COIA, and
 - c. \$175.00 in tribunal fees.
19. The applicant is entitled to post-judgment interest, as applicable.
20. 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.
21. 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.

Lynn Scrivener, Tribunal Member