



Civil Resolution Tribunal

Date Issued: March 18, 2019

Date Amended Decision Issued: April 2, 2019

File: SC-2018-003352

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Brian Deck (dba Bee Electric) v. Bridge*, 2019 BCCRT 325

B E T W E E N :

Brian Deck (Doing Business As Bee Electric)

APPLICANT

A N D :

Mark Bridge

RESPONDENT

A N D :

Brian Deck (Doing Business As Bee Electric)

RESPONDENT BY COUNTERCLAIM

AMENDED REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The respondent and applicant by counterclaim, Mark Bridge, hired the applicant and respondent by counterclaim, Brian Deck (Doing Business as Bee Electric), to do electrical work as part of a residential kitchen renovation. Mr. Deck says that Mr. Bridge did not pay for his work and claims \$3,150.
2. Mr. Bridge says that Mr. Deck was not a licensed business and therefore has no right to collect on the invoice. Mr. Bridge also says that Mr. Deck quit the job and left a significant amount of work to be completed. Mr. Bridge counterclaims for \$5,000 for the cost to complete the job and punitive damages. Mr. Bridge also seeks a declaration that it is illegal for Mr. Deck to threaten harm.
3. The parties are each self-represented.

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. In some respects, this dispute amounts to a "he said, he said" scenario with both sides calling into question the credibility of the other. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. Further, bearing in mind the tribunal's

mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. I therefore decided to hear this dispute through written submissions.

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 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.

PRELIMINARY ISSUES

8. Before turning to the merits of this dispute, I will address two preliminary issues. First, Mr. Bridge sought to introduce new evidence after the tribunal decision process completed. Second, Mr. Bridge asked that the dispute be referred back to the case manager for more facilitation.

New Evidence

9. The parties completed the Tribunal Decision Plan, which sets out all of the parties' evidence and submissions, in November 2018.
10. On January 17, 2019, Mr. Bridge wrote to the tribunal's Registrar to seek leave to submit new evidence. Mr. Bridge had sought a review of an inspection of Mr. Deck's work under the *Safety Standards Act*. The new evidence was the decision letter

from the safety manager of Technical Safety BC in response to the review, dated November 29, 2018.

11. I asked both parties for submissions about whether I should accept the new evidence. Mr. Deck submitted that the tribunal decision process was closed and that he did not want any further delays.
12. The new evidence relates to whether Mr. Deck's work was compliant with the BC Electrical Code (Code). As will be discussed in more detail below, this is a significant aspect of the dispute between the parties. I find that the new evidence is relevant to the outcome of this dispute.
13. In addition, I find that the new evidence was not available to Mr. Bridge during the time that they initially provided their evidence to the tribunal. I find that neither party is prejudiced by the introduction of any of the new evidence because each took the opportunity to provide submissions about the new evidence. Mr. Deck also provided additional evidence of his correspondence with Technical Safety BC. While I appreciate Mr. Deck's point that he did not wish the final decision to be delayed, the acceptance of the new evidence did not significantly delay this decision.
14. I find that it is in the interests of justice to accept the new evidence. I have considered the new evidence and the parties' supplemental submissions in my decision.

More Facilitation

15. Mr. Bridge also asked that the matter be referred back to facilitation. Mr. Bridge submitted that Mr. Deck's initial dispute was afforded the benefit of facilitation but Mr. Bridge's counterclaim was not. Mr. Bridge submits that the tribunal failed to follow its own statutory process by failing to have the counterclaim go through its own, separate facilitation process. Mr. Bridge submits that the tribunal should give his counterclaim the same opportunity for facilitation as Mr. Deck's claim received.
16. Mr. Deck disagreed and wanted the decision process to proceed.

17. Section 30 of the Act says that if a claim does not resolve during the case management phase, it proceeds to resolution by a tribunal member. Tribunal rule 100 gives the facilitator, also called the case manager, the discretion to decide when a dispute cannot resolve by agreement. A dispute includes all claims that are to be resolved in a single tribunal proceeding, including a counterclaim. I find that the case manager had the discretion to determine when the dispute would not resolve by agreement. It was open to the case manager to determine that the dispute would not resolve by agreement without going through the motions of a second facilitation process for Mr. Bridge's counterclaim. I therefore reject Mr. Bridge's argument that the tribunal failed to follow its own statutory process.
18. Under tribunal rule 120, I have the discretion to refer the dispute back to facilitation and suspend the tribunal decision process until the facilitator refers it back to the tribunal decision process.
19. Mr. Bridge believes that more facilitation would result in a settlement. Implicit in his position is his belief that the new evidence will inevitably convince Mr. Deck that Mr. Bridge's position is correct. Based on Mr. Deck's responding submissions, he has clearly not been convinced to change his position after reviewing the new evidence. Mr. Deck is adamant that there is no point in further negotiation.
20. This dispute has been highly contentious. Facilitation and negotiation require 2 willing parties. Therefore, in a preliminary decision I found that there was unlikely to be any utility in ordering the dispute back to facilitation. I further found that requiring more facilitation would be inconsistent with the tribunal's mandate of speedy dispute resolution services and would not be an economical use of the tribunal's resources. I therefore declined to refer the dispute back to facilitation and decided to continue with the tribunal decision process.

ISSUES

21. The issues in this dispute are:
- a. How much was Mr. Deck entitled to under the contract?
 - b. How much of the project did Mr. Deck complete?
 - c. Were there any deficiencies in Mr. Deck's work, and if so, how much did it cost to remedy them?
 - d. Is Mr. Deck unable to pursue a claim because he did not have a business license?
 - e. Did Mr. Deck threaten Mr. Bridge? If so, what remedy is appropriate?

EVIDENCE AND ANALYSIS

22. In a civil claim such as this, each party must prove their claims on a balance of probabilities. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.'
23. As mentioned above, Mr. Bridge hired Mr. Deck to complete electrical work as part of a kitchen renovation. The project included the construction of a temporary kitchen in the garage to be used during renovations. Despite both parties providing a significant volume of evidence and submissions, the scope of work is somewhat unclear.
24. Mr. Deck gave Mr. Bridge a written quote via email on October 1, 2017. Mr. Deck agreed to do the job for \$2,500 plus extras, materials and the permit. It is undisputed that Mr. Bridge accepted this quote. I find that the quote became the parties' written contract.
25. Mr. Deck's claim of \$3,150 is broken down as follows:
- a. \$2,500 initial contract price.

- b. \$500 in 10 hours of extra work at \$50 per hour.
 - c. \$150 in GST.
26. Mr. Deck does not claim for any materials or for the permit. It is implicit in Mr. Deck's submissions that he interprets the word "extras" in his written quote as being extra time he had to spend on the project because of changes in its scope. Mr. Bridge believes that the \$2,500 quote was firm. While the use of the word "extras" is somewhat ambiguous, I find that Mr. Deck's interpretation is the more reasonable interpretation of the quote. I find that the contract allowed Mr. Deck to charge for additional time if Mr. Bridge changed the scope of the project.
27. On December 17, 2017, Mr. Deck received a permit from Technical Safety BC to install electrical equipment at Mr. Bridge's home. The permit confirms that Mr. Deck is qualified by Technical Safety BC to perform the electrical work.
28. Again, despite the volume of evidence, there is little information about when Mr. Deck started working and how the project proceeded. I infer from the submissions and subsequent correspondence between the parties that as Mr. Deck worked on the project, the parties' relationship became more and more strained. This progressed to the point where the relationship was in danger of collapsing prior to Mr. Deck completing the project.
29. On March 19, 2018, Mr. Bridge emailed Mr. Deck and said he wanted Mr. Deck to finish the job. Mr. Deck confirmed that he would complete the job. On March 20, 2018, Mr. Bridge offered to set aside a day for Mr. Deck to finish the job.
30. On March 27, 2018, Mr. Bridge emailed Mr. Deck about parts and other matters. It is clear from this email that Mr. Bridge still believed that Mr. Deck would finish the job.
31. Mr. Deck says that when he attended the jobsite later that day, it was clear that he would not be able to finish on a single day because the site was not prepared. Mr. Deck says that he brought up the amount of extra time that he would need to

charge for and Mr. Bridge became angry and threatened litigation. Mr. Deck says that he was terminated because he asked Mr. Bridge to pay \$500 in extras. Mr. Deck did not perform any more work on the project. As discussed in more detail below, the parties argument became heated and the police attended.

32. On April 27, 2018, Technical Safety BC provided an Electrical Certificate of Inspection. The safety officer assessed the project as compliant. The safety officer noted the inspection as complete and final.
33. Mr. Bridge hired a new electrician completed the project. On May 3, 2018, the new electrician provided an invoice for \$3,071.65, which included work in the kitchen, dining room and back entrance. On August 25, 2018, the new electrician provided an invoice for \$677.99, which included kitchen and dining room finishing. On September 19, 2018, the new electrician provided a final invoice for \$1,120.58 for kitchen and dining room finishing. The total labour cost in these invoices was \$3,922 plus GST. The invoices add up to \$4,870.22.

The Safety Standards Act Review

34. Mr. Bridge sought a review of the inspection under section 49 of the *Safety Standards Act*, which allows a person to have a safety manager review a safety officer's decision. Mr. Bridge and Mr. Deck each made submissions to the safety manager.
35. The safety manager issued their decision on November 29, 2018. The safety manager described the inspection and permitting process in detail. The safety manager said that when a safety office inspects a site prior to completion, they are only able to assess whether the worksite presents an electrical fire or shock hazard. In the circumstances of the inspection on April 27, 2018, the work was not under charge and therefore posed no risk.
36. However, the safety officer did not comment on Mr. Bridge's substantive allegations of non-compliance with the Code. The safety manager concluded that the

inspection should be varied to clarify that it was for shock and fire hazards only because it would have been premature to inspect the work for anything further while it was incomplete.

37. Given that the safety manager is a statutory decision maker within their area of expertise, I rely on their interpretation of the inspection process under the Code.¹ For the same reasons, I adopt the safety manager's conclusion that the inspection did not consider whether the finished product would be compliant with the Code but only assessed whether it posed a fire safety risk at that time of inspection. Accordingly, the inspection report that Mr. Deck relies on is not evidence that all of his work was compliant with the Code.
38. However, the safety manager's decision is also not evidence that any of Mr. Deck's work was not compliant with the Code. The safety manager did not comment on whether Mr. Bridge's work in progress was to Code because compliance with the Code is only assessed at the completion of a project.
39. The safety manager's decision also says that Mr. Deck did not dispute that there were deficiencies. Mr. Bridge submits that Mr. Deck's position in the safety manager's review is different than in this dispute and that I should be skeptical of Mr. Deck's credibility as a result.
40. I note that Mr. Deck's actual words to the safety manager are not in evidence, just the safety manager's summary. In addition, Mr. Deck says that he did not dispute the deficiencies because it was outside of the scope of the conversation with the safety manager. I find that this is consistent with the scope of the safety manager's review, which did not include analysis of the alleged deficiencies. Based on the evidence before me, I disagree with Mr. Bridge that Mr. Deck admitted to any alleged deficiencies.

¹ I note that Mr. Bridge indicated in his submissions that the safety manager's decision was "under appeal". Mr. Bridge does not say who initiated the appeal.

How much was Mr. Deck entitled to under the contract if he had finished the work to Code?

41. The first task is to determine how much Mr. Deck would have received if he had completed the contract.
42. Mr. Bridge argues that because they did not have an explicit agreement that Mr. Deck would be partially paid if the project was only partially complete, Mr. Deck should receive nothing. I find that the principle of “quantum meruit” (value for work done) allows me to determine a reasonable amount for the work Mr. Deck performed under the contract, even the contract did not include a specific term to account for partial completion.
43. Mr. Bridge also argues that Mr. Deck’s failure to render an invoice or accounting of his time should be fatal to his claim. I disagree. While the lack of an itemized timesheet makes it more difficult to assess the reasonableness of Mr. Deck’s claimed “extras”, I find that the initial quote is clear evidence of the agreed cost for Mr. Deck to complete the project.
44. However, I agree with Mr. Bridge that Mr. Deck has failed to adequately prove his entitlement to “extras” of \$500. His evidence on the point is vague, especially considering the lack of objective evidence about the initial scope of work. There is no objective evidence that identifies any extra work beyond the initial scope, such as email correspondence. I therefore find that if Mr. Deck had finished the project, he would have only been entitled to the contracted amount of \$2,500, plus GST, for a total of \$2,625. I dismiss Mr. Deck’s claim for \$500 plus GST for “extras”.
45. The next question is how much to reasonably deduct from the contracted amount. As an aside, the parties each spent considerable effort arguing about whether Mr. Deck quit or was fired. I find that this issue is beside the point. Mr. Deck cannot claim the entire benefit of the contract because it would overcompensate him by paying him for work that he did not do.

46. I find that there are 2 reasons to make deductions from Mr. Deck's invoice: the project was not complete and there were deficiencies in Mr. Deck's work.

Incomplete Work

47. The parties take very different views on how close to completion Mr. Deck was when he stopped working. Mr. Bridge says that Mr. Deck had barely started. Mr. Deck says he was nearly done. For the reasons that follow, I find that Mr. Deck's evidence is more credible on this issue.

48. Mr. Bridge relies on an email that Mr. Deck sent on October 1, 2017, as evidence that Mr. Deck thought that the job would take 20 days. Mr. Bridge says that Mr. Deck worked for 4 days, and therefore had not progressed very far into the job. I reject Mr. Bridge's characterization of the email. In fact, Mr. Deck was describing another job where he had to return to the jobsite 20 times because of issues with the homeowner. He does not say that the job took 20 days, let alone that he thought Mr. Bridge's kitchen would take 20 days. There is no reasonable interpretation of Mr. Deck's email to support the conclusion that Mr. Deck estimated 20 days to complete the project, especially given that Mr. Deck quoted only \$2,500. I find that Mr. Bridge's attempt to mischaracterize Mr. Deck's email negatively impacts his credibility on this point.

49. In addition, Mr. Bridge's position in this dispute contradicts his own estimate that there was only a day of work left to be done as of March 20, 2018, and his initial estimate was that the project should take 7 days or less. I find that Mr. Bridge's own contemporaneous estimates are more credible than his assertions in this dispute that the work was "far from complete" and that Mr. Deck had done "very little work".

50. I also take into account the fact that Mr. Deck charges \$50 per hour.

51. On a judgment basis, I find that it is reasonable to deduct \$800, plus GST, from Mr. Deck's invoice for the project not being complete. This amounts to approximately 2 days of work.

Deficiencies

52. The parties spent considerable time arguing about whether there were deficiencies in Mr. Deck's work.
53. As a preliminary point on this issue, Mr. Deck says that it is Technical Safety BC policy that when a new contractor takes over a project, the new contractor becomes responsible for ensuring there are no deficiencies. This position is consistent with the safety manager's decision. I agree that any deficiencies left after Mr. Deck stopped working on the project would fall to the new electrician to correct prior to an inspection.
54. Mr. Deck also says that he is "totally absolved" of any responsibility for the deficiencies. Mr. Deck provided an audio recording with a telephone call with an inspector. In the conversation, the inspector gives his opinion about who is responsible to pay for fixing deficiencies when a contractor is fired. I find that this recording does not assist Mr. Deck because he leads the other participant in his questioning to serve his purposes in this dispute. I have placed no weight on it.
55. I do not agree with Mr. Deck that the fact that the new electrician was responsible for completing the project means that Mr. Deck bears no responsibility for his own work. While from the perspective of Code compliance, the new electrician was responsible for fixing any deficiencies, I find that Mr. Deck's written quote was to complete the job with no deficiencies or other remaining work.
56. Mr. Bridge alleged 6 deficiencies, some of which are complaints about the project being incomplete rather than deficient. In particular, I disagree that Mr. Bridge's complaints about the work in the temporary kitchen are "deficiencies" because they would not have been part of the final product. I took these complaints into account when determining a reasonable sum to deduct from the initial contract prove above.
57. I find that Mr. Bridge has 4 complaints that are properly characterized as deficiencies.

58. First, Mr. Bridge says that there was no grounding wire connected to the panel. Mr. Deck says that grounding the panel was outside of his scope of responsibility. In any event, he says that there was an adequate existing ground.
59. Second, Mr. Bridge says that there were several overloaded circuits. Mr. Deck says that the way he had the circuits configured was compliant with the Code.
60. Third, Mr. Bridge says that the lack of Teck strapping in the temporary kitchen was not to Code. Mr. Deck says that it was temporary. Mr. Deck says that the section of the Code that deals with temporary wiring does not require it to be strapped.
61. Fourth, Mr. Bridge says that Mr. Deck used a 240 volt hookup for the 120 volt hot water tank. Mr. Deck admits that he made a mistake in assuming that the hot water tank was 240 volts. Nevertheless, he says that there was no need to change the wire. In addition, he says that when the hot water tank was ready to be hooked up, it would be very difficult to make a mistake because of obvious differences between 240 volt and 120 volt hookups. He says that there would be no extra work associated with this minor mistake.
62. Neither party led any expert evidence on the alleged deficiencies, and as discussed above, the safety manager made no comment on the alleged deficiencies. Neither party provided any references to the Code to support their positions.
63. Mr. Bridge relies on his own statement describing what the new electrician told him were deficiencies. Mr. Bridge did not provide a statement from the new electrician directly and does not explain why he did not do so. The tribunal has flexibility to receive evidence that is not admissible in court, such as hearsay. However, I find that the new electrician's evidence would be expert opinion evidence that goes to the heart of a highly contested aspect of this dispute. In the context of this dispute, a layperson's summary of an expert's opinion is of little use. I place little weight on Mr. Bridge's description of the new electrician's opinion about the alleged deficiencies.
64. That said, Mr. Deck does accept, in his submissions, that there were aspects of his work that were temporary and would require more work before passing inspection.

He also admits to some errors. Whether these aspects of his work were “deficiencies” or not may be a matter of semantics rather than substance. While I have placed little weight on Mr. Bridge’s hearsay evidence of the new electrician, I find that there is sufficient evidence to conclude that there were aspects of Mr. Deck’s work job the new electrician had to redo or complete.

65. Mr. Deck raised the issue of Mr. Bridge claiming the entire cost of invoices that he says, on their face, do not entirely relate to the project. As mentioned above, the invoices mention the dining room and back entrance, which Mr. Deck says were not part of the work he quoted. Mr. Bridge did not respond to this argument, despite having the opportunity to do so in reply. However, in his supplementary submissions, Mr. Bridge continues to rely on the invoices to support his view that Mr. Deck’s work had “negative value”, such that it cost Mr. Bridge more to repair and redo Mr. Deck’s work than it would have cost to hire someone else from the outset.
66. I agree that Mr. Bridge’s steadfast reliance on the invoices to prove that Mr. Deck’s work had “negative value” in the face of Mr. Deck’s arguments reflects poorly on his credibility.
67. I find that Mr. Bridge has failed to prove that all of the time that the new contractor spent fixing the deficiencies or completing the work. Based on Mr. Bridge’s descriptions of the deficiencies, I find that it is unlikely that the new electrician spent a significant amount of work fixing them. On a judgment basis, I deduct a further \$250, plus GST, from Mr. Deck’s invoice for rectifying any outstanding deficiencies in his work.
68. As for Mr. Bridge’s general argument that Mr. Deck’s work had “negative value”, I find that the evidence does not bear out that assertion. In addition, Mr. Bridge did not make the reasonable concession that Mr. Deck should get any credit for his work in the event that Mr. Bridge was successful in his counterclaim for the cost of the new contractor’s. Therefore, if successful, Mr. Bridge would be relieved from paying any of Mr. Deck’s invoices and would be compensated for all of the new

electrician's invoices. In result, Mr. Bridge would pay nothing for the electrical work for the renovation. Clearly, this would be an inappropriate result. I therefore reject Mr. Bridge's argument that Mr. Deck provided "negative value".

69. Therefore, I find that the total deduction from Mr. Deck's invoice is \$1,102.50. I find that Mr. Bridge must pay \$1,522.50, subject to my findings on the rest of Mr. Bridge's arguments.

Is Mr. Deck unable to pursue a claim because he did not have a business license?

70. Mr. Bridge submits that I should dismiss Mr. Deck's claims because he did not have the proper business license. Mr. Bridge submits that an unlicensed business does not have standing to bring a claim. Mr. Bridge submits that permitting Mr. Deck to do collect on his invoice would allow him to benefit from an illegal act.

71. Mr. Deck admits that he did not have the correct business license. Mr. Deck says that this was an innocent oversight. There is no allegation that Mr. Deck does not possess the appropriate qualifications to do the type of electrical work that Mr. Bridge hired him to do.

72. Mr. Bridge relies on 3 cases in support of his position.

73. I will deal with the 2 oldest cases first: *Kocotis v. D'Angelo*, 1957 CanLII 133 (ON CA) and *Archbolds (Freightage) Ltd. v. S. Spanglett Ltd.* [1961] 1 All E.R. 417, a decision of the English Court of Appeal. I find that both cases reflect an inflexible and outdated interpretative approach to illegal contracts that no longer applies in Canada: see John McCamus, *The Law of Contracts* (Toronto: Irwin Law, 2005), at 459 – 467.

74. As Mr. Deck points out, the current law about whether a contract is enforceable despite imperfect compliance with a statutory regime is summarized in *Lotusland Estates Ltd. v. Ali*, 2002 BCSC 131. The facts of *Lotusland* are not relevant to this dispute, but the Court helpfully summarized the factors that the Court will consider when deciding whether to enforce an illegal contract:

- a. The relative merits of the parties' positions.
- b. The purpose of the statute and the policy on which it is founded.
- c. Whether the statute contains the consequences of illegality.
- d. Whether the voiding of the illegal contract results in a penalty that is disproportionate to the statutory breach.

75. Mr. Bridge also relies on *Dong v. Tong & Canadian Lord Enterprises Inc.*, 2009 BCPC 133, which reflects the modern approach to illegal contracts. In that case, the Court considered enforcing a lease contract for a vehicle when the lessor was not licensed under the *Motor Dealer Act*. The Court refused to enforce part of the lease contract because the *Motor Dealer Act* protects the public from unqualified and unscrupulous persons from selling or leasing motor vehicles. There was therefore a strong public policy reason for refusing to enforce the contract.

76. Applying the 4 factors from *Lotusland Estates*, I find that Mr. Bridge's argument must fail. I rely primarily on the fourth factor. I find that Mr. Deck's breach is unrelated to his qualifications to complete the project. Unlike in *Dong*, a business licence is unrelated to competence and does not involve any vetting that protects the public. There is no discernable purpose in the bylaw that it protects the public. I find that failing to get a business licence is a minor statutory breach.

In contrast, the consequences of voiding the contract would have potentially serious consequences to Mr. Deck's business even beyond this dispute, as any customer could justifiably refuse to pay. In this dispute, I find that voiding the contract would be out of proportion to the gravity of non-compliance with the bylaw.

Did Mr. Deck threaten or extort Mr. Bridge? If so, what remedy is appropriate?

77. Mr. Bridge says that Mr. Deck threatened him and his mother.² He seeks a declaration and an unspecified amount for punitive damages.

² Amended pursuant to section 64(b) of the Act to correct an accidental and inadvertent error.

78. Mr. Bridge says that Mr. Deck says that he would “ruin” Mr. Bridge and that he “was not done with” Mr. Bridge. Mr. Bridge’s mother provided a brief statement about March 30, 2018 to corroborate what Mr. Deck said.
79. Even if I accepted Mr. Bridge’s allegations about what exactly Mr. Deck said, I disagree that the specific words are clear threats of physical harm. He said that he would “ruin him” at his work, which I find is a threat to Mr. Bridge’s reputation but not a threat of physical harm. He alleges that Mr. Deck said that he “was not done with” Mr. Bridge. I find that that is more likely than not a threat of taking legal action, which is what Mr. Deck did.
80. Therefore, while it appears common ground that the exchange between the parties was heated, I cannot conclude that Mr. Deck threatened Mr. Bridge in such a way that would raise to the level of an assault.
81. As for Mr. Bridge’s claim of extortion, he relies on *Scherf v. Nesbitt*, 2009 ABQB 658. In that case, the Court found that the tort of extortion requires that the defendant threaten an illegal act. Because Mr. Deck did not threaten Mr. Bridge, I need not consider Mr. Bridge’s other legal arguments about the civil tort of extortion.
82. I therefore dismiss Mr. Bridge’s counterclaim for damages for assault and extortion.
83. In addition, Mr. Bridge’s claim for a declaration of what is and what is not contrary to the *Criminal Code* is outside of the jurisdiction of the tribunal. Whether anything criminal occurred is a matter for the police, the Crown and the courts.
84. I dismiss this aspect of Mr. Bridge’s counterclaim.
85. 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 that Mr. Deck was partially successful in this dispute. I find that Mr. Bridge is entitled to reimbursement of half of his tribunal fees of \$175 for a total of \$87.50. I dismiss Mr. Bridge’s claim for tribunal fees.

86. Neither party claimed any dispute-related expenses.

ORDERS

87. Within 14 days of the date of this order, I order Mr. Bridge to pay Mr. Deck a total of \$1,630.62, broken down as follows:

- a. \$1,522.50 as payment for Mr. Deck's work,
- b. \$20.62 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$87.50 for tribunal fees.

88. Mr. Deck's remaining claims are dismissed. Mr. Bridge's remaining counterclaims are dismissed.

89. Mr. Deck is entitled to post-judgment interest, as applicable.

90. 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.

91. 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.

Eric Regehr, Tribunal Member

