Civil Resolution Tribunal

Date Issued: March 26, 2019

File: SC-2018-006902

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Griplok Tile Corp v. Renodiz Flooring & Design Centre Inc.*, 2019 BCCRT 370

B E T W E E N :

Griplok Tile Corp

APPLICANT

A N D :

RENODIZ FLOORING & DESIGN CENTRE INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about payment for tile installation work. The applicant, Griplok Tile Corp, says the respondent, RENODIZ FLOORING & DESIGN CENTRE INC.,

failed to pay in full for tile installation it did between February and May 2017. The applicant says the total job was $10,330.56 but the respondent paid only $6,000, leaving a balance of $4,330.56, which the applicant claims in this dispute.

2. The respondent submits they had already paid the applicant and says the applicant owes it $2,478 for repair work the respondent had to get done on 2 other jobs the applicant worked on. The respondent did not file a counterclaim.

3. The applicant is represented by Alexandru Munteanu, its principal. The respondent is represented by Reza Anbarani, its employee or principal. For the reasons that follow, I allow the applicant's claims.

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* (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 the circumstances here, I find that I am properly able to assess and weigh the documentary 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 that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.

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.

ISSUE

8. The issue in this dispute is how much, if anything, the respondent owes the applicant for tile installation work.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.

10. The applicant says from February to May 2017 it completed a job in floor preparation and tile installation in 2 bathrooms at an address on Mathers Avenue in West Vancouver. This is undisputed and I accept it. As noted above, the applicant says the respondent paid only $6,000, leaving the claimed balance of $4,330.56, as set out in the applicant's invoice #55.

11. I note the applicant in this dispute is Griplok Tile Corp. However, the tile invoices in question were issued by "Almiol Corp". There is no explanation before me about the difference in business name. The address for the applicant is different than the address for Almiol Corp on its invoice. That said, I accept that Mr. Munteanu was the person who did the work and who issued the invoices for Almiol Corp, which is not disputed. Neither the named applicant nor "Almiol Corp" are corporations, given only "Corp" is the extension for both. Based on the evidence before me including Mr. Munteanu's text message exchanges discussed below, I find they are the same business and the applicant has standing to make the claim for payment in this dispute.

12. There is no written contract for the tile installation work in question. Based on the invoices discussed below, the labour job was based on piece-work pricing. Again, the description of the work done is not disputed.

13. Almiol Corp's invoice #55, dated March 2, 2017 reflects a $6,000 advance payment, leaving a $90.48 balance. Invoice #55 details a variety of work for the respondent at the Mathers address, for various areas in the house.

14. However, Almiol Corp re-issued invoice #55 with the same March 2, 2017 date, but this time the balance due was $4,330.56, after the $6,000 advance payment was deducted. The applicant says it re-issued the invoice at the respondent's request to include 2 additional bathrooms (master and "behind house" bathrooms). The respondent did not dispute this assertion, and I accept it.

15. Apart from the 2 versions of invoice #55, and photos of the completed bathrooms at the Mathers job, the applicant's only other evidence was a series of screenshots with "Anbarani Nima". On balance, given the text messages discussed below, I find this person was a representative of the respondent, which is not disputed. In particular, one February 8, 2017 message from "Nima" stated the tiles "are at Mathers job site" and they would give the applicant's number to the site manager "Reza", who I find is the respondent's representative in this dispute.

16. As summarized below, Mr. Munteanu texted "Nima" numerous times about the outstanding payment, without success.

17. On June 12, 2017, "Nima" texted and asked Mr. Munteanu to complete baseboard tiles and an unfinished wall at the Mathers job site. The applicant says this was a request to work further on the Mathers job site, despite the respondent not having paid the applicant in full for work that was done. The respondent did not specifically address this in its submission, saying only that it had paid in full.

18. On September 18, 2017, Mr. Munteanu texted Nima again and asked for a cheque, and Nima responded that he would "let you know whenever the job is paid and your cheque is ready". I find this shows the respondent had not paid the applicant in full by this date, and there was no suggestion that there should be any deduction for other jobs. The respondent provided no evidence in support of its position, including any evidence that it had paid the applicant in full.

19. The applicant submitted a further series of texts between September 2017 and April 2018 where the applicant kept asking for a discussion about their invoices and for payment, and NIma would in each case say he was busy or "will let you know when I figured it out". In April 2018, Nima emphasized that their client had made a lesser payment and so he needed to "figure out what to do with that". I find that the client's underpayment is not determinative of the respondent's obligation to pay the applicant for the tile work as agreed between them.

20. At no point in this roughly 1-year period of text message exchanges did Nima ever say the applicant's invoice was excessive or that the applicant owed money for alleged deficiencies.

21. On balance, I find Nima's text messages were made on the respondent's behalf and show that it promised to pay Mr. Munteanu or his business for the tile work at issue in this dispute. I find the weight of the evidence, and the September 2017 to April 2018 text messages in particular, shows the respondent did not pay the invoice balance at issue. If the respondent had paid the applicant, I find it would have been easy for the respondent to provide evidence in support that it had done

so, such as a cancelled cheque or record of an e-transfer payment or a receipt. Again, no such evidence was provided.

22. The respondent did not dispute the calculation of the $4,330.56. Instead, it said only that it had already paid the applicant in full, and yet as noted there is no evidence of it doing so. I find the respondent must pay the applicant the $4,330.56 as claimed.

23. While the respondent states it counterclaims for $2,478, the respondent did not file a counterclaim. The respondent submitted only that $2,478 is what it paid to 2 other installers to repair Mr. Munteanu's jobs at 2 other addresses, work reflected in the applicant's invoice numbers 51, 54, and 58. Yet, the respondent provided no further details and no evidence in support of this submission, such as photos of the alleged deficiencies or the repair invoices from the other installers. The applicant denies it is responsible for the alleged deficiencies and says it did some repair work from other installers' work, and whatever the respondent paid it was not to correct the applicant's work.

24. I find the respondent has not established that any set-off in this dispute is warranted. It has not proved the applicant's work was deficient and I have already found above the respondent acknowledged in texts that payment to the applicant was outstanding. The respondent has also not proved the amount of the claimed $2,478, given it failed to provide copies of invoices for the alleged repairs.

25. Given my conclusions above, I find the respondent must pay the applicant $4,330.56. The applicant is entitled to pre-judgment interest under the *Court Order Interest Act* (COIA), from March 16, 2017, the invoice's due date. This equals $101.26.

26. In accordance with the Act and the tribunal's rules, as the applicant was successful I find it is entitled to reimbursement of $175 in tribunal fees.

ORDERS

27. Within 14 days of this decision, I order the respondent to pay the applicant a total of $4,606.82, broken down as follows:

    a. $4,330.56 in debt,

    b. $101.26 in pre-judgment interest under the COIA, and

    c. $175 in tribunal fees.

28. The applicant is entitled to post-judgment interest, as applicable.

29. 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.

30. 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.

Shelley Lopez, Vice Chair