



Civil Resolution Tribunal

Date Issued: March 27, 2019

File: SC-2018-007007

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *305466 BC Ltd. dba ServiceMaster Disaster Restoration of Vancouver v. Twin Sun Technologies Ltd.*, 2019 BCCRT 379

B E T W E E N :

305466 BC Ltd. doing business as ServiceMaster Disaster Restoration
of Vancouver

APPLICANT

A N D :

Twin Sun Technologies Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. The applicant, 305466 BC Ltd. doing business as ServiceMaster Disaster Restoration of Vancouver, says it provided water extraction and remediation work

for the respondent Twin Sun Technologies Ltd. but was not paid. The applicant claims \$2,034.34, which is the cost of the work completed.

2. The respondent says the applicant was authorized to investigate to see if an insurance claim could be made for water entering a suite. The respondent says it did not authorize remediation work on the water damage. It says the applicant placed dehumidifiers in the unit without its agreement and then issued a bill for services that were not requested. The respondent asks that the dispute be dismissed.
3. The applicant is represented by principal or employee Hayley Marinelli. The respondent is represented by principal or employee Donald Skogstad.

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, she 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.

6. 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 decided to hear this dispute through written submissions.
7. 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.
8. 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.

ISSUE

9. The issue in this dispute is whether the applicant completed water remediation work satisfactorily such that the respondent is obliged to pay its invoice of \$2,034.34.

EVIDENCE AND ANALYSIS

10. This is a civil claim in which the applicant bears the burden of proof on a balance of probabilities. I have reviewed all of the evidence and submissions but refer to them here only as necessary to explain my decision.
11. At some point in October 2017, the respondent had a water leak in one of its suites.
12. On an unspecified date in October 2017, the respondent's representative signed a "Statement of Work Authorization" form, allowing the applicant to "proceed with the

necessary repairs and/or cleaning to my premises and/or contents as a result of water problem downstairs bedroom”. While I find this authorization valid, it does not permit the applicant to charge for work that is unnecessary or unsatisfactory. The applicant provided details of the water claim for the respondent with photographs detailing its investigation and remediation work. However, it did not file a copy of its invoice in evidence.

13. On October 18, 2017, a company called Bold and Bald Constructions Ltd. completed emergency water extraction for the applicant at a cost of \$491.40.
14. The respondent says it wrote an October 31, 2017 email about the water leak that said, “I don’t want to commit to anything until I know if I have coverage”. However, the respondent did not file a copy of the email in evidence, only a one-line summary in a Word document. I therefore place no weight on this document. Even if an email was sent on October 31, 2017, it would appear to be too late to revoke the authorization provided earlier, considering the October 18, 2017 work by Bold and Bald Constructions Ltd.
15. I am also unable to say when the water leak occurred or when the applicant’s work was conducted, because neither party filed a copy of the applicant’s invoice in evidence.
16. I am unable to make findings about when the work was completed, nor to properly assess what work was done. I have reviewed some photographs which show the applicant completed some investigation and removed some laminate flooring due to water damage.
17. Given that the burden is on the applicant, I find that its claim to the whole \$2,034.34 is not proven.
18. The respondent submitted a letter from the contractor who came to complete the water remediation work. He assessed the site and offered his considered view that the work completed by the applicant was worth, at most, \$350. I cannot rely upon his report because he says he reviewed the applicant’s invoice, but I was not

provided with a copy of it. For this reason, I prefer to value the work completed by the applicant at the cost of the water extraction, \$491.40, which I find is all that has been proven.

19. As the respondent does not dispute that some work was done by the applicant, I order it to pay the \$491.40 that was charged to the applicant by the third party it hired to assist with water extraction.
20. 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. As the applicant was partly successful, I find it is entitled to 50% of its tribunal fees being \$62.50.
21. Since the respondent did not succeed in defending the claim, and because I could not rely upon the letter it obtained from a contractor, I deny its claim for costs of the letter.

ORDERS

22. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$563.20, broken down as follows:
 - a. \$491.40 in payment for services rendered,
 - b. \$9.30 in pre-judgment interest under the *Court Order Interest Act* from October 31, 2017 to the date of this decision, and
 - c. \$62.50 in tribunal fees.
23. The applicant is entitled to post-judgment interest, as applicable.
24. 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.

25. 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.

Julie K. Gibson, Tribunal Member