



Civil Resolution Tribunal

Date Issued: April 8, 2019

File: SC-2018-006771

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Dame v. Riverside Banquet Halls Ltd.*, 2019 BCCRT 434

B E T W E E N :

Cheriena Dame

APPLICANT

A N D :

Riverside Banquet Halls Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. This dispute is about wedding banquet hall services.
2. The applicant Cheriena Dame says the respondent Riverside Banquet Halls Ltd. provided unsatisfactory bartender service, DJ, music, lights and facilities for her wedding.

3. The applicant claims a total of \$3,621.50, broken down as:
 - a. \$1,875, a 75% refund from the total \$2,500 hall rental package,
 - b. \$912.50, a partial refund of the \$1,350 she paid for lights, music and DJ,
 - c. \$434, a 40% discount off the \$1,085 paid for bartending service, and
 - d. a \$400 refund for bartender tips left by her guests.
4. The respondent says the wedding reception went “very very very well” other than a few small hiccups that were corrected in the first thirty minutes. The respondent says it fulfilled the service agreement satisfactorily overall and asks that the dispute be dismissed.
5. The applicant is self-represented. Principal or employee Micheal Ghirra represents the respondent.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.

8. 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.
9. 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.
10. 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

11. The issue in this dispute is whether the respondent breached its contract to provide wedding banquet hall and related services, such that it must pay the applicant the claimed \$3,621.50.

EVIDENCE AND ANALYSIS

12. 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.

13. On August 17, 2018, the respondent provided the applicant with a booking confirmation for her wedding to her then-fiancée, to be held August 18, 2018.
14. The wedding was celebrated on August 18, 2018. The bride, who is the applicant, was dissatisfied with the services provided by the respondent as described in the booking confirmation.
15. The agreement between the applicant and respondent is a “peace of mind” contract in relation to wedding reception services. In my decision, I have considered the analysis of this type of contract from *Graham v. Total Wedding & Event Centre Ltd.*, 2015 CanLII 46106 (ON SCSM).
16. I will now consider each of the applicant’s concerns separately.

Bartending Service

17. Based on the booking confirmation, I find that the respondent agreed to provide 2 bartenders and bar service from 5:00 p.m.-11:30 p.m., for \$1,085.
18. The applicant’s now husband and her mother-in-law met with S, an employee of the respondent, the day before the wedding. At the meeting, they told Sue that the wine bottles would need to be opened by 5 p.m. the next day. It is uncontested, and I find, that Sue agreed that the bartenders would arrive 30 minutes early to open the wine bottles.
19. The respondent says that “the bartenders do open up wine bottles but mainly for all the bottles for the bar service area. However, we do open bottles for tables but not 60 bottles that need to be corked open minutes prior to guests coming in, we prefer the simple screw-off type when doing this many.”
20. The respondent did not file any evidence. Based on its submission and the applicant’s observations, I find that it did not have the wine bottles open, as agreed, in time for guests to arrive at 5:30.

21. On August 18, 2018, it is uncontested, and I find that, members of the wedding party arrived at 5:00 p.m. to find that the wine bottles were not open. It is uncontested, and I find, that the bartenders were late, arriving closer to 5:30. I find that members of the wedding party opened the wine bottles.
22. Based on the whole of the evidence, I accept the applicant's account that the bartenders were late, sometimes rude, including to her directly, and that the wine was not open on time.
23. The parties agree that two vodka bottles were broken in transport between the car and the bar area. Although the applicant agrees that she was refunded \$100 for these breakages, she says her wedding guests could not get vodka later in the event, because it ran out. I accept this evidence.
24. For these reasons, I find that the respondent failed to ensure satisfactory bartending service during the wedding.
25. The applicant claims \$434, or a 40% discount of the \$1,085 charged for bartending service. The applicant came to this amount, in part, because she says her parents had to open wine bottles at the beginning of the event, therefore missing the receiving line. While her upset is understandable, I find it does not justify a 40% discount.
26. Given that the respondent provided bartending service during much of the 6.5-hour event, and that most of the issues occurred in first hour, on a judgment basis I find that a 15% refund is appropriate. I order the respondent to pay the applicant \$162.75.

Tip Jar

27. The applicant says the servers placed a tip jar at the bar, without her authorization. She says guests were misled into thinking they were donating to the couple. The applicant gave no other evidence to prove this assertion.

28. The applicant says the tip jar is something that should be pre-approved by the bride and groom. I find that a tip jar was not discussed before the wedding, nor mentioned in the booking confirmation.
29. Having said that, there was also no evidence that the tip jar was expressly excluded either in discussions with Sue or in the booking confirmation. There was no evidence that the bride and groom asked for the tip jars to be removed, once they were alerted to them. The money was provided by guests, who are not parties to this dispute and gave no evidence about the tip jar's intended recipients. There is no evidence as to the amount left in tips.
30. For these reasons, I find the applicant has not met the burden proving her claim to proceeds of the tip jar. I dismiss the claim for \$400 for the tip jar.

Music, DJ, Slide Show and Lighting

31. The applicant says the DJ failed to play her requested songs, had technical problems because he streamed the music rather than downloading it, and failed to present her wedding slide show as discussed.
32. I accept that the DJ failed to properly play or prepare many of the songs the applicant had requested. As one example, the groom's first dance with his mother was to be to Rascal Flatt's song My Wish. Unfortunately, the DJ first played No Diggity, by Blackstreet, because he could not find the requested song. The bride's brother had to intervene to help him find and play the right song.
33. Text message evidence from the DJ to the applicant says that the "wifi" at the venue "ruined the intro songs" and that he was "definitely humbled" by the computer "acting up so much that night."
34. The bride says, and I accept, that she gave her USB stick with the slideshow on it to S the day before the wedding. The respondent provided no evidence from S. I find that S told the applicant the DJ would test the stick and let her know if there were any issues.

35. On the day of the wedding the DJ said that one of the slides was not working. This required the maid of honor to drive to the hotel and pick up the bride's laptop, and then export the slide show to the correct file. Once this technical issue was overcome, the DJ could not figure out how to turn off his background music, delaying the slideshow and interfering with the ambiance of the moment. The bride's brother again had to intervene.
36. The respondent says the DJ is a professional and that the bride should have submitted the slideshow two weeks prior to the event. The respondent suggested that it books time with the "client to come in on an event night" to check in with the DJ. There was no evidence that it did so in this instance.
37. Based on the evidence overall, I find that the DJ, slide show and music were not satisfactory.
38. Turning to the lighting issue, the booking confirmation shows, and I find, that the bride requested a music/lights and DJ full package with "pink perimeter" lighting. The applicant says she made this choice consistent with her "Enchanting Romantic Pink" wedding theme.
39. The applicant provided photographic evidence that the lighting provided was green and blue mainly, and only interspersed with pink after she complained. I find that the respondent failed to fulfil the applicant's lighting colour choice.
40. The applicant claims a refund of \$912.50, or about 68%, of the \$1,350 charged for lights, music and DJ services.
41. In addition to my findings above, the photographs depict a celebratory wedding event, with perimeter lighting and many guests on the dance floor. As such, I find that the respondent did provide some of the music, DJ and lighting services it promised. On a judgment basis, I quantify an appropriate refund at 20% of \$1,350, or \$270, because I find these deficiencies were somewhat longer and more intrusive to the event than the bartending concerns.

Banquet Hall

42. As far as the banquet hall, the applicant says the waterfall-style fountain, situated in the event space, was under repair when her guests arrived. She says two guests tripped over an electrical cord. She says the bathrooms were out of paper towel, hand soap and, in some stalls, toilet paper.
43. The respondent agrees that the fountain was having the water “changed” “just prior to opening the doors for the event.”
44. I find, based on the photographs filed in evidence, that the fountain was still being cleaned and maintained, by at least four of the respondent’s employees clad in t-shirts and shorts, using a shop vac and mop, when guests were already present.
45. As far as shortages of hand soap, toilet paper and paper towel, I accept the applicant’s evidence because it was not specifically addressed by the respondent, who only said that the hall was “fully ready on-time”, aside from the fountain.
46. I accept the applicant’s evidence that she had to request toilet paper, paper towel and hand soap be added to some restrooms. Upon her request, I find the situation was remedied.
47. I find that stocking the restrooms is something the respondent should have done prior to the event. As well, I find it was implied that the fountain would be functioning when guests arrived, as it was when the applicant toured the facility. I find that the respondent failed to meet these implied conditions of the rental agreement.
48. The applicant seeks a 75% refund from \$2,500 charged for hall rental, or \$1,875.
49. Given that the booking confirmation included an agreement for hall rental, and the space was provided for the 6.5-hour event, I find that a 75% refund is not justified. Having reviewed all of the evidence, on a judgment basis I find a 20% discount, \$500, is appropriate.

50. The booking confirmation shows that the applicant was charged \$9,952.95 by the respondent and paid a \$6,000 deposit. This left the applicant owing \$3,952.95, which I find the applicant paid, as the respondent did not contest the point. I find the applicant is entitled to a refund of \$932.75. I will calculate prejudgment interest from September 18, 2018.

51. I order the respondent to refund the applicant \$932.75, within 10 days of this decision.

52. 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 in tribunal fees.

ORDERS

53. Within 10 days of the date of this decision, I order the respondent to pay the applicant a total of \$1,116.44, broken down as follows:

- a. \$932.75 as a refund against the wedding services invoiced,
- b. \$8.69 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 for tribunal fees.

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

55. 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.

56. 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