



# Civil Resolution Tribunal

Date Issued: May 27, 2019

File: SC-2018-005470

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Nathan Charlton dba heli 2 contracting v. Tyler Curtis Huebner dba TCH Contracting et al*, 2019 BCCRT 638

**B E T W E E N :**

Nathan Charlton (Doing Business As heli 2 contracting)

**APPLICANT**

**A N D :**

Tyler Curtis Huebner (Doing Business As TCH Contracting) and  
Dwayne Hearn

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell

## INTRODUCTION

1. This dispute is about payment for work performed.

2. The applicant, Nathan Charlton (Doing Business As heli 2 contracting), seeks payment of \$4,190 for work he says he performed for the respondents, Tyler Curtis Huebner (Doing Business As TCH Contracting) and Dwayne Hearn. The applicant says the respondents only paid 1 of his 3 invoices.
3. Mr. Huebner says he only received 2 invoices, and he paid the first one. He says the second invoice was incorrect, as it included billing for too many days. He says he requested a “proper invoice for days worked”, but never received it.
4. Mr. Hearn says the applicant was paid for 2 invoices, and he is unaware of any third invoice. He says that as far as he knows, the applicant was paid in full.
5. The parties are each self-represented.

## **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* (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 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.

8. 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.
9. Under tribunal rule 9.3(2), 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**

10. Do the respondents owe the applicant \$4,190 for work performed?

## **EVIDENCE AND ANALYSIS**

11. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
12. There is no evidence before me about the type of work performed by the applicant, although based on the submissions I infer it related to logging. The respondents did not dispute that work was performed and did not dispute the quality of the work. For that reason, and based on a copy of a text message provided by the applicant, I accept that he worked for the respondents and expected payment.
13. The applicant submits that Mr. Hearn hired him, but that Mr. Huebner issued his cheques. The business relationship between Mr. Hearn and Mr. Huebner, or the nature of their work, is not clear from the evidence. It is also unclear from the evidence which respondent, or both, was contractually obligated to pay the applicant. There was no written contract between the parties. The applicant's invoices name both respondents. Given the respondents did not dispute they were contractually involved, I find they are jointly and severally responsible for monies awarded to the applicant.

14. That applicant provided the tribunal with copies of 2 invoices. The first is dated April 19, 2018, and is marked “paid”. The second invoice is for \$1,712, and is dated April 23-26, 2018. I infer that this was a replacement invoice, which explains why the applicant says he sent 3 invoices to the respondents.
15. Since the applicant admits the April 19, 2018 invoice was paid, I find that no amount is owing for it.
16. The second invoice shows a balance of \$1,712. This is calculated as 4 days of work (April 23 to 26), at \$400 per day, plus GST. This daily rate is consistent with the April 19, 2018 invoice, which also shows a rate of \$400 per day. Also, on the Dispute Response Form provided to the tribunal, Mr. Huebner agreed that the applicant’s rate was \$400 per day.
17. I place significant weight on the fact that on the Dispute Response Form, Mr. Huebner admitted that the applicant was “owed for 3 days of work at \$400 per day.” Mr. Huebner says he was waiting for a corrected invoice, which he did not receive. Given that Mr. Huebner admits the applicant is owed \$1,200 for work performed, I order the respondents to pay that amount. I will address GST below.
18. The key factual dispute between the parties is whether the applicant is owed for a fourth day of work, at \$400 per day. The respondents deny this claim. The applicant, who bears the burden of proof, says he is owed for a fourth day, but did not provide any specific evidence to establish the number of hours or days worked, such as timesheets or log entries. While his invoice says he worked full days on April 23, 24, 25, and 26, there is no evidence before me to prove that the invoice, which Mr. Huebner disputes, is correct.
19. For this reason, I find the applicant has not met the burden of proving his claim for payment for a fourth day of work.
20. Also, while the disputed invoice includes \$112 for GST, I do not order the respondents to pay any amount for GST. This is because the applicant’s previous invoice of April 19, 2018, which includes the same service (labour at \$400 per day),

does not include GST. The applicant did not explain why the first invoice included GST and the other did not. His first invoice indicates there was no agreement between the parties that the applicant would be paid \$400 per day plus GST, so I find the applicant has not proved he is entitled to payment for GST.

21. Finally, I note that the amount set out in the applicant's invoices do not equal his claimed \$4,190. The applicant did not explain this discrepancy, or explain how he arrived at the total of \$4,190. He did not provide invoices to support that amount. The applicant's Dispute Notice refers to payment owed for "wages and meters". I infer that meters relates to the amount of logs cut. However, the applicant's invoices do not include billing for or references to meters. There is no evidence before me about an agreement to pay for meters in addition to days worked, and there is no record about how many meters the applicant cut, or the applicable rate. I therefore order no payment for meters.
22. The applicant provided an April 29, 2019 invoice for \$188.03 from an Ontario organization called Business Development Centre (BDC), which appears to be for filing fees and administrative services related to setting up his sole proprietorship. The applicant also wrote in an additional \$59.95 at the bottom of the BDC invoice, which he says was for filing fees to reserve his business name. There is no evidence before me indicating that the respondents ever agreed to pay for these services, so I order no payment for them.
23. In summary, based on the evidence before me, I conclude that the respondents must pay the applicant \$1,200 for work performed. I dismiss the applicant's remaining claim for \$2,990, for the reasons set out above. The applicant is entitled to pre-judgment interest on the \$1,200 under the *Court Order Interest Act* (COIA), from April 30, 2018, which is the due date on his outstanding invoice. This equals \$20.49.
24. The applicant was only partially successful in this dispute. However, the respondents failed to pay the applicant any amount for outstanding wages prior to

this decision. Therefore, accordance with the Act and the tribunal's rules, I find the applicant is entitled to reimbursement of the \$175 he paid in tribunal fees.

25. The applicant also claimed \$111.40 for the cost of serving the Dispute Notices on the respondents, and provided receipts for this amount. I find this expense was reasonable in the circumstances, so I order the respondents to reimburse the applicant \$111.40 for this dispute-related expense.

## **ORDERS**

26. I order that within 30 days of this decision, the respondents pay the applicant a total of \$1,506.89, broken down as follows:

- a. \$1,200 in debt,
- b. \$20.49 in pre-judgment interest under the COIA, and
- c. \$286.40 as reimbursement of tribunal fees and dispute-related expenses.

27. The applicant's remaining claims are dismissed. The applicant is entitled to post-judgment interest under the COIA, as applicable.

28. 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.

29. 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.

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Kate Campbell, Tribunal Member