



# Civil Resolution Tribunal

Date Issued: May 30, 2019

File: SC-2018-008785

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Monteith Moving and Storage Ltd. v. Camp et al.*, 2019 BCCRT 659

BETWEEN:

Monteith Moving and Storage Ltd.

**APPLICANT**

AND:

Marilyn Camp and Evan Camp

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This dispute is about moving expenses.

2. The applicant, Monteith Moving and Storage Ltd., says it provided moving services for the respondents, Marilyn Camp and Evan Camp, and that the respondents have not paid. The applicant seeks \$1,103.29, which is the amount of the unpaid invoice.
3. The invoice is billed to “Angel Estates” and is signed by Mr. Camp. Mr. Camp stated he is the sole proprietor of Angel Estates Sales and that his wife, Marilyn Camp, should not be named in the dispute. There is no evidence before me as to Ms. Camp’s role with Angel Estates Sales. Based on the evidence before me, I find the dispute is properly against Mr. Camp as sole proprietor of Angel Estates Sales. I dismiss the claims against the respondent, Marilyn Camp.
4. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Some of the evidence in this dispute amounts to a “he said, she said” scenario. The credibility of interested 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. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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 British Columbia Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is an issue.

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 9.3(2), 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 to what extent, if any, the respondents owe the applicant for the outstanding invoice for moving services.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
11. It is undisputed that on August 22, 2018, the respondents hired the applicant to perform moving services from Parksville to Nanaimo, British Columbia. The applicant submits the move was to be completed at an hourly rate of \$119.50 for 2 movers, plus a fuel surcharge and GST. The respondents submit they were quoted \$200 total for the move by BM, an employee of the applicant, and refuse to pay

more than that. Other than the cost of the invoice, there is no evidence the respondents were dissatisfied with the quality of the applicant's work.

12. BM provided a statement in evidence and advised she did not provide a quote for \$200, or any amount, to the respondents as she did not know the quantity of goods that were to be moved and would therefore be unable to provide an estimate. BM stated no written estimate was given and that when estimates are provided over the phone, she would have given the 2-man rate of \$119.50 per hour, with a minimum of 4 hours, plus the fuel surcharge and GST. I accept BM did so in this case.
13. BM emailed the respondents on July 26, 2018 to confirm the move on August 22, 2018. No quote was provided in the email. BM notified the respondents they would be invoiced by email to Angel Estates. I find this supports that there was no pre-determined set amount the respondents would be charged for the move. I am satisfied no firm estimate was provided to the respondents in advance of the move on August 22, 2018.
14. The respondents argue that there was only supposed to be a few items picked up and therefore they were quoted \$200, but that more items were moved than first anticipated. They say that if more items were actually picked up, the applicant should have called them to advise the price would increase. I disagree. Given the evidence, I am satisfied neither of the parties knew the quantity of the goods to be moved, which I find further supports there was no set fee discussed.
15. Given the above, I find the applicable rate for the applicant's services was \$119.50 per hour. The August 22, 2018 invoice is for 8.5 hours at \$119.50 per hour, plus a \$35 fuel surcharge and 5% GST for a total of \$1,103.29. The terms on the invoice include contractual interest (26.82% per year) on overdue accounts from the date of the invoice. The invoice is signed by Mr. Camp, but he advises the total was blank when he signed it and was told the completed invoice would be sent to him at a later date, from the applicant's office, which he assumed would be \$200. I find the fact the invoice was later sent to the respondents for payment is consistent with what the applicant had advised the respondents in BM's confirmation email on July

26, 2018, and is also consistent with the invoice being contingent on how long the move took.

16. In her statement, BM advised she reviewed the moving truck's GPS tracking system and confirmed the movers were on the respondents' job for 8.5 hours on August 22, 2018.
17. Mr. Camp advised he sent the applicant a cheque for \$200 through a certified bailiff in full payment for the moving services provided on August 22, 2018. The applicant submits that this cheque was never received. In any event, it is not disputed that the cheque was not cashed. Therefore, the entire invoice amount from August 22, 2018 remains outstanding.
18. I am satisfied the applicant has met the burden of proving its claim for \$1,103.29, based on the evidence provided. I order the respondent Evan Camp to pay this amount. The applicant is also entitled to interest on that amount, from the date of the invoice to the date of this decision. While the contract provided for contractual interest, I only award pre-judgment interest under the *Court Order Interest Act* because that is all the applicant claimed in this dispute.
19. Under section 49 of the Act, and the 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 \$125 in tribunal fees. There were no dispute-related expenses claimed.

## **ORDERS**

20. Within 14 days of the date of this decision, I order the respondent, Evan Camp, to pay the applicant a total of \$1,242.92, broken down as follows:
  - a. \$1,103.29 for unpaid moving services,
  - b. \$14.63 in pre-judgment interest under the *Court Order Interest Act*, and

c. \$125.00 in tribunal fees.

21. The applicant is also entitled to post-judgment interest, as applicable.
22. The claims against Marilyn Camp are dismissed.
23. 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.
24. 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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Andrea Ritchie, Vice Chair