



Civil Resolution Tribunal

Date Issued: June 10, 2019

File: SC-2018-007966

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Elaine Grace (dba Grace & Associates Business Solutions) v. Nationwide Fuel Ltd., 2019 BCCRT 703*

B E T W E E N :

Elaine Grace (Doing Business As Grace & Associates Business Solutions)

APPLICANT

A N D :

Nationwide Fuel Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. The applicant, Elaine Grace (Doing Business As Grace & Associates Business Solutions) and the respondent, Nationwide Fuel Ltd., entered into a contract for the applicant to provide the respondent bookkeeping services. The applicant says the

respondent has failed to pay her for some of her work. She wants the respondent to pay her \$1,404.05 for an outstanding invoice, and \$913.50 for work she performed in August and September 2018, for a total of \$2,317.55.

2. The respondent says the applicant's work did not meet the required standard and she charged them more than the parties agreed to in the contract.
3. Both parties are represented by an employee or principal.

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. Some of the evidence in this dispute amounts to a "she said, they said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanor 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. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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 recent decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and 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 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

8. The issue in this dispute is whether the respondent is required to pay the applicant \$2,317.55 for bookkeeping services.

EVIDENCE AND ANALYSIS

9. In a civil claim like this one, the applicant must prove their claim on a balance of probabilities. This means I must find it is more likely than not that the applicant's position is correct.
10. The respondent provided evidence but chose not to make submissions. I have only addressed the parties' evidence and submissions to the extent necessary to explain and give context to my decision.
11. On June 4, 2018 the parties signed an engagement letter for the applicant to provide unspecified bookkeeping services to the respondent. The respondent agreed to pre-pay the applicant a minimum of \$720 per month on the first day of each month. The applicant agreed to provide a "monthly tiered package" based on the number of transactions she entered. The applicant says the respondent told her they had fallen behind in their data entry and they wanted her to catch up their bookkeeping as quickly as possible.
12. On June 7, 2018 the applicant began working for the respondent. On June 13, 2018, she sent the respondent an email stating that she was having problems with

their accounts receivable and asking for assistance. The respondent says they asked an accountant about her issue and it became apparent that the applicant had not been entering data properly and that the applicant could not reconcile the GST and PST. The respondent did not submit a statement or evidence from this accountant.

13. On July 3, 2018 the applicant met with a representative of the respondent to review her work. She says the representative told her they were happy she was making progress and to continue her work. The respondent says their representative told the applicant about their concerns with her GST and PST reconciliations.
14. On July 23, 2018 the applicant sent an invoice to the respondent for her work on transactions dated up to May 2018. The respondent initially disputed the amount of the invoice, but after the applicant explained the amounts in the invoice the respondent paid it. That invoice is not in evidence.
15. On July 24, 2018 the respondent proposed re-negotiating the terms of the parties' agreement to a 1-year contract starting in the following fiscal year.
16. The respondent submitted an email it received from the applicant on July 27, 2018 in which she asks the respondent to check some of her transactions because she said the respondent's taxes appeared to be incorrect.
17. On August 8, 2018 the applicant met with the respondent's representative who she said asked her to resolve and adjust the respondent's GST and PST inconsistencies on its sales invoicing. She says he told her he would send her a document identifying these inconsistencies (document), and that the respondent would pay her extra for this additional work once she completed it, as it was outside the scope of the work contemplated in the engagement letter. The respondent denies this and says it was the applicant's substandard work, not the respondent's invoicing inconsistencies, which caused the issues with the GST and PST. The applicant says this meeting lasted 2.5 hours, which is supported by her

documentary evidence. The respondent denies the meeting was so long but provided no evidence to support the length of the meeting.

18. The applicant says she never received the document from the respondent. There is no evidence to indicate the applicant completed the extra work she says the parties discussed on August 8, 2018.
19. On August 27, 2018 the applicant sent the respondent her invoices for her work on transactions dated in June, July, and August 2018, each for \$756 including tax. The respondent refused to pay the invoices because they say the applicant had not completed all of her bookkeeping duties for their transactions up to the end of May 2018, despite having already paid her for that work in July 2018. The applicant subsequently cancelled her invoices for June, July and August 2018.
20. On October 3, 2018 the respondent notified the applicant by email that they would no longer require her services as there had been a lack of communication and she had missed deadlines. The respondent said they had not received any complete months of bookkeeping from her, as she had incorrectly entered some of their H. invoices. They provided no evidence to show her bookkeeping was incomplete or that she incorrectly entered the H. invoices. They asked the applicant for a partial refund of the fees they had already paid her.
21. The applicant said she accepted the respondent's email as 30 days' notice to end their agreement in accordance with the letter of engagement. On October 4, 2018 the applicant sent the respondent her final invoice for \$1,404.05 which included work she completed for transactions dated in June 2018 for \$720 and July 2018 for \$435, as well as her meeting with the respondent on August 8, 2018 for \$182.19. All these amounts are before tax. In a separate document the applicant provided a breakdown of the amount charged in the final invoice. It shows she charged \$36 per hour for her time at the August 8, 2018 meeting and \$45 for 1 hour of travel time to and from the meeting, plus mileage. The applicant submitted a transaction report showing 7 pages of transactions she entered for June and July 2018.

22. On balance, I find the evidence establishes that the applicant provided the bookkeeping services to the respondent indicated in her final invoice. While the respondent says the applicant's work was incomplete, they did not provide evidence to substantiate their allegations. They did not provide a statement from the accountant who they claim confirmed the applicant's inability to reconcile the taxes, nor did they provide evidence of her incorrect entering of the H. invoices. I also find it is unlikely the respondent would have paid the applicant's invoice for her work on transactions dated up to May 2018 and offered her a 1-year contract in late July 2018 if they found her work to be substandard earlier that month, as they claim. I find the respondent must pay the applicant \$1,404.05. The applicant is entitled to pre-judgment interest on this amount under the *Court Order Interest Act* (COIA), calculated from October 4, 2018, which is the date of the final invoice.
23. The applicant also claims \$913.50 for her work on transactions in August and September 2018. However, I find the applicant has not proven she is entitled to this amount. She submitted an audit log showing she completed approximately 2.5 hours of work on August 12, 2018, however this log shows that the dates of the relevant transactions were between January 11, 2017 and July 23, 2018. I also note that she completed this work on August 12, 2018 and she sent her final invoice to the respondent on October 4, 2018, so I would expect the work she completed in August to be included in that invoice, which is for transactions up to the end of July 2018. There is no evidence the applicant completed any work for the respondent after August 12, 2018, or that she completed work on any of the respondent's transactions dated in August or September 2018. I dismiss this claim.
24. 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. The applicant was partially successful, so I find she is entitled to reimbursement of half of tribunal fees in the amount of \$62.50. She claims \$25.03 for postage and a corporate search, which I find to be reasonable dispute-related

expenses. Therefore, I find she is also entitled to reimbursement of half of her dispute-related expenses in the amount of \$12.52.

ORDERS

25. Within 14 days of the date of this order, I order the respondent to pay the applicant a total of \$1,495.89, broken down as follows:
 - a. \$1,404.05 as payment of the applicant's final invoice,
 - b. \$16.82 in pre-judgment interest under the COIA, and
 - c. \$75.02 for \$62.50 in tribunal fees and \$12.52 for dispute-related expenses.
26. The applicant's remaining claims are dismissed.
27. The applicant is entitled to post-judgment interest, 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.

Sarah Orr, Tribunal Member