



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *JENS FREDERIKSEN (Doing Business As JENS FREDERIKSEN DBA VIKING SCREEN PRINT) v. LISA MCGUIRE (Doing Business As LISA MCGUIRE DBA LEAVE IT TO LISA BOOKEEPING SERVICES)*, 2019 BCCRT 725

BETWEEN:

JENS FREDERIKSEN (Doing Business As JENS FREDERIKSEN DBA VIKING SCREEN PRINT)

APPLICANT

AND:

LISA MCGUIRE (Doing Business As LISA MCGUIRE DBA LEAVE IT TO LISA BOOKEEPING SERVICES)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. This is a dispute about the amount charged for bookkeeping services.

2. The applicant Jens Frederiksen, doing business as Jens Frederiksen DBA Viking Screen Print, says the respondent Lisa McGuire, doing business as Lisa McGuire Leave It to Lisa Bookkeeping Services, was hired to file 2014 taxes, among other bookkeeping work, and failed to complete the work satisfactorily. As well, the applicant says the respondent overcharged compared to the agreed hourly rate.
3. The applicant claims \$2,196 for the incomplete and overcharged work. He also claims \$1,500 he says he paid his new bookkeeper to fix and complete the respondent's work.
4. The respondent says the applicant asked her to prepare several years of tax returns from boxes of receipts and bank statements. Then, the applicant told the respondent he would enter the income himself. The Canada Revenue Agency (CRA) then advised that 2012 and 2013 had already been completed. At that point, the respondent says the applicant asked her to stop working on this file, because he could not afford to pay more at that stage. Later, the applicant asked her to resume work. The respondent says she completed the bookkeeping that she could for years 2014 and 2015, but that the applicant again did not provide the income figures. The respondent denies owing any money to the applicant. She asks that the dispute be dismissed.
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*. 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 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.

ISSUES

11. The issues in this dispute are
 - a. whether the respondent must refund \$2,196 to the applicant for alleged deficiencies in bookkeeping services provided, and

- b. whether the respondent must pay \$1,500 the applicant says he had to pay a subsequent bookkeeper to re-do the work.

EVIDENCE AND ANALYSIS

12. In this civil claim, 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 to the extent necessary to explain and give context for my decision.
13. In the spring of 2018, the applicant hired the respondent to perform bookkeeping services for his business.
14. The parties did not have a written contract setting out the terms of their arrangement.
15. The parties had a verbal agreement that the applicant would pay the respondent \$45 per hour for bookkeeping services.
16. On May 30, 2018, the respondent invoiced the applicant \$2,646.00. It was undisputed, and I find, that the respondent then wrote off \$500 of this bill to help the applicant out financially.
17. On October 15, 2018, the respondent invoiced the applicant \$1,216.69 for work completed from October 3-15, 2018, totaling 25.75 hours at \$45 per hour, plus GST.
18. It was uncontested, and I find, that the May 30, 2018 and October 15, 2018 invoices were paid by the applicant.
19. On October 25, 2018, the respondent invoiced the applicant for \$779.63, made up of 16.5 hours of work at \$45.00 per hour, for work performed on October 16, 22, 23 and 25, 2018, plus GST.
20. On November 9, 2018, the respondent invoiced the applicant \$543.38 for bookkeeping services.

21. The respondent paid the applicant \$1,348.90 for the October 25 and November 9 invoices, by e-transfer on November 21, 2018. When I add together the two invoice amounts, the amount owing should have been \$1,323.01, representing an overpayment, relative to those invoices, of \$25.89. The applicant did not specifically contest this as an overpayment, and I do not have enough evidence to make a finding as to whether it was a true overpayment or a balance owing from a previous invoice. If there is an outstanding issue, the parties are free to resolve it between themselves.
22. The applicant contests the charges for work on October 22, 27 and November 5 2018, which are specifically listed on the invoices issues for that period, because he says the audit log for Quickbooks shows the respondent did not log into Quickbooks on those dates. The applicant did not file the audit log for October 27 or November 5, 2018 in evidence. I do not accept his assertion that no work was completed on those dates.
23. While I agree that the audit log for October 22 shows that the respondent did not use Quickbooks that day, I accept the respondent's evidence that the bookkeeping work involves organizing the client's documents and communicating with the CRA. That is, the bookkeeping service provided included more than just the time using Quickbooks.
24. The applicant now contests the amount he paid, saying the respondent did not work the hours for which she charged him, and that he wanted the 2014 taxes done first, but the respondent failed to follow this instruction.
25. Because there was no written agreement regarding the scope of work, I find that the applicant has not proven that he asked the applicant to focus on 2014 only, or first. The documents filed in evidence prove that the respondent worked on documents from several tax years, including 2014, 2015, 2016, 2017 and 2018. I find this more consistent with an agreement that the respondent would provide bookkeeping services to the applicant for several tax years. The respondent submits that the documents provided were disorganized, and I accept this evidence.

26. I find that the applicant did not ask the respondent to complete 2014 tax filing first, but instead asked her to provide bookkeeping services for several years and then withheld income information that was needed to complete some of this work.
27. LB, an employee of the respondent who assisted in providing services to the applicant, provided a statement saying that, to her knowledge, the bookkeeping services provided to the applicant were accurate and all documents were returned to the applicant in an orderly manner.
28. The applicant says he never agreed to have LB provide bookkeeping work. I find that the applicant retained the respondent, and that she could have her employees assist with the bookkeeping work.
29. KB, a bookkeeper who runs a separate business, reviewed the scope of bookkeeping work that the respondent was asked to complete for the applicant, at the respondent's request. KB wrote that he would have charged for 16 hours of organizing materials at \$38 per hour, plus 100 hours of bookkeeping work at \$68 per hour, for total estimated cost of \$7,778.40.
30. The applicant did not provide an opinion from his subsequent bookkeeper about what, if anything, needed to be re-done in terms of the respondent's bookkeeping work, or offering an opinion as to how the respondent's bookkeeping work was lacking. As such, I dismiss the applicant's claim for \$1,500 for the subsequent bookkeeping services.
31. I find that the applicant has not met the burden upon him to prove, on a balance of probabilities, that the respondent's work was unsatisfactory. While I understand that the applicant is upset with the cost of the respondent's bookkeeping services, the price seems moderate compared with KB's estimate for the same work.
32. For these reasons, I dismiss the applicant's claim for a refund of the respondent's invoices, and his claim for subsequent bookkeeping services.

33. 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 unsuccessful, I dismiss his claim for tribunal fees.

ORDER

34. I dismiss the applicant's claims and his dispute.

Julie K. Gibson, Tribunal Member