



Civil Resolution Tribunal

Date Issued: July 5, 2019

File: SC-2019-000304

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Paramark Builders Ltd. v. S3team P2unks Systems Corp.*,
2019 BCCRT 810

B E T W E E N :

PARAMARK BUILDERS LTD.

APPLICANT

A N D :

S3TEAM P2UNKS SYSTEMS CORP.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about an unpaid invoice. The applicant, Paramark Builders Ltd., says that it was only partially paid for its carpentry labour services. The respondent,

S3team P2unks Systems Corp., denies that it owes the applicant any money on the basis that it fully paid the applicant for its services.

2. The applicant is represented by Mark Paradowski. The respondent is represented by Skye Hawkins. Each representative is the principal of their respective party.
3. The applicant originally named Mr. Hawkins as the respondent in this dispute. However, the parties agreed to change the named respondent to S3team P2unks Systems Corp.

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* (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. In the circumstances of this dispute, I find that I am properly able to assess and weigh the 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.
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. The applicant provided a link to an online file storage service as part of its evidence. At my request, the contents of the storage service were provided to the respondent

by email and mail. The respondent was also advised of this evidence by telephone. The applicant provided further submissions by email and I have considered them in my reasons.

8. Under tribunal rule 9.3(2), in resolving this dispute the tribunal may make an order 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 whether the respondent owes the applicant for unpaid carpentry labour services, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. 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.
11. The respondent was hired to do work at a property located in Victoria, BC. In mid-November 2018 the respondent hired the applicant to provide carpentry services at the property.
12. The parties' dispute is extensively documented in text messages. The parties agree that the applicant worked 100.5 hours and that the applicant's rate was \$50 per hour. The parties disagree as to whether the hourly rate included tax. The parties agree the respondent paid \$1,725 on November 24, 2018 and \$1,570 on December 20, 2018. The parties disagree about whether the respondent made a third payment to the applicant.

13. In a December 12, 2018 text the applicant asked the respondent to pay for the services provided. On December 20, 2018, the respondent texted that he paid \$1,570, as noted above. The applicant texted back that there was still an amount outstanding. The applicant explained that it worked 35 hours from November 19 to 24, 2018, for which it received \$1,750 (a transaction record shows the applicant only received \$1,725 for 34.5 hours worked). However, from November 26 to December 5, 2018, the applicant worked 66 further hours, for which \$3,300 was payable. As he had just been paid \$1,570, there was \$1,730 still outstanding.
14. The respondent submits that it paid the outstanding balance of \$1,730 “a few days” after December 17, 2018. In support of this claim, the respondent cites a December 20, 2018 text message in which the applicant wrote, “Paid in full....Amount \$1570”.
15. That text message is part of an exchange that I find clearly shows that the applicant was not paid in full for its services. The applicant was referring to the \$1,570 payment that it admits it received. This was only a partial payment of the amount outstanding. A few minutes after this text the respondent wrote that the applicant only worked 66 hours and disagreed that the applicant should be paid more. As noted above, the respondent now agrees that the applicant worked 100.5 hours. This text exchange therefore shows that the applicant had not yet been paid for all hours worked.
16. The next day on December 21, 2018, the respondent texted that it had made two payments of \$1,725 and \$1,570. I find it unlikely that the respondent made a third payment of \$1,730 given that it was not referred to at the time.
17. The respondent also submits that the applicant should have texted the number of hours worked each day to make sure they were recorded correctly. However, there is no indication in the text messages or other evidence that the parties agreed to do this or that it was required for payment.
18. Given the above, I find the applicant has not been paid in full. The applicant provided a January 3, 2019 invoice that shows \$2,007.50 outstanding. The

applicant explains that the discrepancy between this figure and the \$1,730 amount in the text messages is largely because GST was not initially included in the calculations of amounts owing. However, the applicant acknowledges that the parties agreed the applicant would be paid \$50.00 per hour “in full”. I find that the applicant is entitled to \$1,730, which reflects \$50 per hour plus any applicable taxes. The text messages support that this was the full amount owed.

TRIBUNAL FEES AND EXPENSES

19. As the applicant was largely successful in this dispute, I find the applicant is entitled to reimbursement of \$125 in tribunal fees. The applicant did not claim dispute-related expenses.

ORDER

20. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$1,873.02, broken down as follows:

- a. \$1,730.00 in debt,
- b. \$18.02 in pre-judgment interest under the *Court Order Interest Act* (COIA),
and
- c. \$125.00 as reimbursement of tribunal fees and dispute-related expenses.

21. The applicant is entitled to post-judgment interest under the COIA.

22. 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.

23. 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.

David Jiang, Tribunal Member