



Civil Resolution Tribunal

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File: SC-2019-000952

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *T.F. Watson Electrical Ltd. v. The Outsourced Controller Inc.*, 2019 BCCRT
835

BETWEEN:

T.F. WATSON ELECTRICAL LTD.

APPLICANT

AND:

THE OUTSOURCED CONTROLLER INC.

RESPONDENT

AND:

T.F. WATSON ELECTRICAL LTD.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. This dispute is about electrical services the applicant T.F. Watson Electrical Ltd. (Watson) provided for the respondent Outsourced Controller Inc. (Outsourced) as part of a home renovation.
2. Watson says it has not been paid for \$831.22 of electrical work it completed for the Outsourced.
3. Outsourced says the electrical work was incomplete and included mistakes. Outsourced says it should not have to pay the \$831.22.
4. Outsourced counterclaims, saying Watson damaged its \$3,357.76 television, and caused \$1,642.24 in damage to electrical, drywall and painting at its premises. In its counterclaim, Outsourced seeks the sum of these two figures, being \$5,000, which is also the small claims limit of the Civil Resolution Tribunal (tribunal).
5. The applicant is represented by principal Trevor Watson. The respondent is represented by principal Robert Rodvik.

JURISDICTION AND PROCEDURE

6. These are the tribunal's formal written reasons. 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. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.

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 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

10. The issues in this dispute are:
 - a. whether or to what extent, Outsourced must pay Watson the claimed \$831.22 for electrical services provided, and
 - b. on the counterclaim, whether Watson must pay Outsourced \$5,000 for damage to its television, drywall, painting and electrical that Outsourced says Watson caused while working in the home.

EVIDENCE AND ANALYSIS

11. In a civil claim such as this, Watson bears the burden of proof, on a balance of probabilities. Outsourced bears this same burden in the counterclaim.
12. Watson says it completed electrical work for Outsourced's renovation, installing \$302.64 of materials using \$489.00 in labour, plus tax.
13. On December 10, 2018, Watson invoiced Outsourced \$831.22 for this work.

14. The invoice is detailed. I find that the work itemized in it was completed. The invoice does not specify an interest rate for overdue payments.
15. It is undisputed, and I find, that Outsourced did not pay the invoice.
16. Outsourced says that some light switches in his home worked before Watson worked on his home, but now do not work.
17. Watson agrees that there is one light switch that should have been a three-way switch but was not. Watson says it agreed to install a 3-way switch without additional charge. The switch was to be located between Outsourced's closet and entrance door. This installation change was not completed before this dispute started. I do not have evidence of the value of this installation change. However, I set a value of \$150. I reach this value by adding the approximate labour charge for 45 minutes (\$56.25), plus a 3-way switch at \$4.16 and an \$86 switching kit, as priced on the December 2018 invoice.
18. Outsourced also raised a concern about his garburator wiring. Outsourced says his garburator was wrongly wired through the outside ground fault. Watson agrees, but says this work was not done by his crew. Watson says this wiring was incorrectly connected by another electrician who also did work at the home.
19. The text messages filed in evidence are more consistent with Watson's account than the evidence of Outsourced. It is undisputed, and I find, that at least one other contractor was working on the home's electrical prior to Watson. For these reasons, I accept Watson's account and find that it did not do deficient work on the garburator wiring.
20. Watson agrees that it had to remove a portion of the kitchen tiling to complete electrical work in the kitchen. However, Watson says this was an error where the tiling should not have been completed to close in the area prior to the electrical work being finished.

21. Based on the photograph of the tiled area and Watson's explanation, I accept Watson's evidence that this was not an error, but a renovation planning issue for which Watson is not responsible.
22. The remainder of Outsourced's claims about deficiencies were not supported by sufficient evidence for me to find any shortcoming in the electrical work. For example, no quote was provided by a second electrician to repair deficiencies.
23. Given my finding about the three-way switches, I find that Outsourced must pay Watson \$831.22 less the \$150, for a total of \$681.22. I will address any set-off of this amount after my discussion of the counterclaim below.

Counterclaim

24. Outsourced claims Watson damaged his television, drywall, painting and electrical and asks to be paid \$5,000.
25. Watson denies causing damage as described in Outsourced's counterclaim, except for a minor drywall scratch.

Television

26. Trevor Watson provided a witness statement about the work completed at Outsourced's home on September 7, 2018. Outsourced asked that a pot light be installed. The work needed to be completed beside the television. Watson's journeyman electrician D and apprentice C, who completed the work, provided statements.
27. Mr. Watson observed that the television had a blanket over it and two mattresses leaning against it. C took off his tools prior to moving his body between the fireplace and the mattresses that were leaning against the television. Then, D handed tools to C as he needed them to complete the work.

28. Mr. Watson says, and based on Outsourced's photograph of the area and the statements from C and D I agree, that the work happened beside the television, not in front of it.
29. Mr. Watson says that Outsourced had several contractors at his home before and after Watson's crew, as well as several tenants. Outsourced did not contest this point and I find that there were other contractors and tenants in the home.
30. C's and D's statements are consistent with Mr. Watson's observations. They deny damaging the television. I accept the evidence of C and D.
31. Outsourced filed a photograph of the television's screen in evidence. The photograph is taken with the television on, showing a still image of broadcaster Van Jones' face. Where his face is displayed, there is a small bright vertical line, about an inch long, interrupting a small part of the television picture. There is no doubt that this defect interferes with television viewing.
32. Other than this evidence, Outsourced did not provide evidence proving that Watson caused the damage to his television. For example, it did not provide a statement from a witness who observed the cause of the damage. I am left with evidence that there were many possible causes for the damage to the television, none proven to be more likely than another.
33. Given the evidence that C took care to remove his tool belt before moving past the television, that the television was covered with a blanket, and the evidence that other contractors and tenants were in the home before and after Watson's work, I find that Outsourced has not met the burden of proving that the damage was caused by Watson. I dismiss this aspect of the counterclaim.

Drywall

34. Outsourced provided a photograph of a scratch or hole in the drywall of the bathroom wall. Outsourced says this damage was caused by Watson.
35. In his statement, C says that he caused this small amount of drywall damage to the bathroom wall while working on Outsourced's job. C says he owned up to his mistake right away.
36. The other photographs of drywall damage are consistent with areas being cut out carefully so that electrical work could be completed. Outsourced acknowledges that it "allowed" Outsourced to complete wiring in the laundry area to ensure it would be "up to code."
37. Based on this admission, although Outsourced argues Watson completed some electrical work without express authorization, I find that Outsourced generally agreed to electrical work needed to bring areas of the house where Watson was asked to work "up to code".
38. As part of that implied consent, I find that Outsourced understood that some areas would need to be cut to provide electrical access. I find that the drywall repair needed for these areas is the responsibility of Outsourced, not Watson.
39. The drywall defect created by C, which he admits was a mistake, is minor. I find that a \$50 reduction against the amount owing is appropriate to compensate for it, given the lack of precise evidence as to repair costs.

Summary, Interest, Tribunal Fees and Expenses

40. In summary, I find that Outsourced owes Watson \$681.22, less \$50 for the admitted drywall defect. I order that Outsourced pay Watson \$631.22.
41. The parties had no agreement about contractual interest on overdue payments. Watson asks for *Court Order Interest Act* prejudgment interest from January 10,

2019 to the date of this decision. I agree that this is appropriate and calculate that interest to be \$6.47.

42. 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. I find Watson is entitled to reimbursement of \$75 in tribunal fees. I dismiss Outsourced's claim for tribunal fees in the counterclaim, as it was largely unsuccessful.

ORDERS

43. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$712.69, broken down as follows:

- a. \$631.22 in payment for electrical services,
- b. \$6.47 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$75 tribunal fees.

44. Watson is entitled to post-judgment interest, as applicable.

45. I dismiss all other claims.

46. 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.

47. 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.

Julie K. Gibson, Tribunal Member