



# Civil Resolution Tribunal

Date Issued: July 19, 2019

File: SC-2019-001179

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bigturns Professional Services Ltd. v. Lead Generators International Sales and Marketing Group Incorporated*, 2019 BCCRT 875

B E T W E E N :

BIGTURNS PROFESSIONAL SERVICES LTD.

**APPLICANT**

A N D :

LEAD GENERATORS INTERNATIONAL SALES AND MARKETING  
GROUP INCORPORATED

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about two unpaid invoices. The applicant, Bigturns Professional Services Ltd., says the respondent, Lead Generators International Sales and Marketing Group Incorporated, owes \$2,467.50 for programming work completed in

late January 2018. The respondent says the amount owing should be reduced because the programmed forms no longer work.

2. The applicant is represented by Charles Brodeur. The respondent is represented by Tyler Dawson. I infer that the representatives are principals or employees of each party.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. 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.
5. 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.
6. 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**

7. The issue in this dispute is whether the respondent owes the applicant \$2,467.50, or less, for unpaid programming services.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the applicants bear 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.
9. In October 2017 the respondent contracted with the applicant to develop an online debit-payment processing form. As documented in their signed agreement, the applicant estimated that the work would take 10 hours to complete at \$120 per hour.
10. The project ultimately went overbudget. In December 2017 the respondent agreed by email that the applicant's work was done. The applicant sent a backdated November 30, 2017 invoice for \$1,879.50. This amount reflected a \$600 credit from the respondent's deposit. On December 22, 2017, the respondent emailed the applicant and wrote that the invoice was triple what it expected, and that its business was slow that time of year. The respondent said payment would therefore be delayed until late January 2018.
11. On January 19, 2018, the respondent emailed the applicant and wrote that the online forms were not working due to an auto update by the respondent's web hosting service. The respondent asked the applicant to fix the forms. The applicant did this and sent a second invoice dated January 31, 2018, for \$588.00.
12. The sum of the November 30, 2018 and January 31, 2018 invoices equals the applicant's claim for \$2,467.50. The applicant's time sheet and invoices show that respondent worked for 22 hours (and charged for 21) instead of the estimated 10 for the originally contemplated work. The applicant worked 5.5 hours (and charged for 4.5) for the subsequent January 2018 work.

13. The parties' agreement states that when there is an unexpected event that will incur a cost, the applicant will notify the respondent ahead of time and will not work unless it receives clear approval for an increased budget and timeline. The applicant submits that the project went over budget due to unforeseen circumstances and that it regularly communicated with the respondent regarding the overage and reasons for the additional time spent over the original estimate.
14. I have read the respondent's submissions closely. Although there is some evidence that the respondent was surprised by the ultimate amount, the respondent does not dispute that the applicant provided notice of the expected overage.
15. I find that the applicant provided the agreed-upon work. Although overbudget, I accept that the applicant correctly tracked its hours and advised that additional time and money would be needed. The applicant also performed work in January 2018 that was beyond the scope of the original October 2017 estimate. I find that the applicant is entitled to the invoiced amounts totaling \$2,467.50.
16. The respondent submits that the amount owing should be reduced because all the forms programmed by the applicant stopped working. It provided inconsistent dates for when this happened, but I find that the forms worked until at least October 2018. I base my conclusion on the respondent's October 15, 2018 email. The respondent wrote that the forms were not working and that the applicant chose a "very poor platform to develop these forms". It also noted that the invoices were nearly triple the original estimate. However, the respondent reiterated that it would pay the invoices without disputing the amounts.
17. I find that the parties' emails reinforce my conclusion that the applicant provided working forms. Although the forms ceased working 8 months later, there is little evidence that this was due to the applicant's quality of work. The forms stopped working only one other time, and this was due to the actions of the respondent's web hosting service.

18. In summary, the evidence shows that the applicant is entitled to \$2,467.50. The applicant also claims for pre-judgment interest under the *Court Order Interest Act* (COIA). The applicant provided a calculation of such interest. However, I have not used these calculations as they used an incorrect, higher rate.
19. I find that applicant is entitled to pre-judgment interest under the COIA from February 28, 2018, at which time both invoices were past due. I have decided to use this single date to simplify my order, given the tribunal's mandate to resolve disputes in a manner that is accessible, speedy, and economical.

### **TRIBUNAL FEES AND DISPUTE-RELATED EXPENSES**

20. 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 expenses related to the dispute resolution process. I see no reason in this case to deviate from the general rule.
21. The applicant was largely successful in this dispute. I therefore award the applicant \$125 for reimbursement of tribunal fees and \$22 for in dispute related-expenses (specifically, a registered mail receipt).

### **ORDERS**

22. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$2,668.88, broken down as follows:
  - a. \$2,467.50 in debt,
  - b. \$54.38 in pre-judgment interest under the COIA from February 28, 2018, and
  - c. \$147.00 as reimbursement of tribunal fees and dispute-related expenses.
23. The applicant is entitled to post-judgment interest under the COIA.

24. 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.
  
25. 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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David Jiang, Tribunal Member