



Civil Resolution Tribunal

Date Issued: July 30, 2019

File: SC-2019-001717

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *RMC Ready-Mix Ltd. v. Lalli*, 2019 BCCRT 920

BETWEEN:

RMC READY-MIX LTD.

APPLICANT

AND:

HARPREET LALLI

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a summary decision about whether the Civil Resolution Tribunal (tribunal) should refuse to resolve this dispute under section 10 (1) of the *Civil Resolution Tribunal Act* (Act) for being outside the tribunal's jurisdiction.

2. The applicant, RMC READY-MIX LTD. is represented by an employee or principal. As discussed further below, the respondent, HARPREET LALLI, did not participate in this dispute.
3. On May 30, 2019, the applicant notified the tribunal that it wished to withdraw its claim against the respondent SUKHDEV LALLI. The style of cause has been amended accordingly to reflect that HARPREET LALLI is the sole respondent.

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. 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.
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 make one or more of the following orders, where permitted under section 118 of the Act:
 - 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

8. The issue is whether the tribunal should refuse to resolve the dispute under section 10 (1) of the Act for lack of jurisdiction.

EVIDENCE AND ANALYSIS

9. In the Dispute Notice that started this proceeding, the applicant claims payment of \$1,896.16 for the respondents' failure to pay for concrete supplies the applicant says it delivered to Harpreet Lalli's home on August 21, 2017.
10. The Dispute Notice indicates that after the respondents' failure to pay for the concrete, on February 9, 2018 the applicant filed a lien on Harpreet Lalli's property.
11. The applicant served Harpreet Lalli with the Dispute Notice in accordance with the tribunal's rules, but Harpreet Lalli failed to file a Dispute Response in time.
12. The applicant applied for a default order against Harpreet Lalli. However, in its Default Decision and Order Form the applicant indicated that the \$1,896.16 claimed in the Dispute Notice for the concrete delivery has been paid. The applicant amended its claim to payment of a \$550 fee to have the lien removed from Harpreet Lalli's property.
13. Under the *Builders Lien Act* (BLA), the Supreme Court of British Columbia has exclusive jurisdiction to determine whether a lien was improperly filed or should be removed or extinguished. Therefore, based on the information before me, I find that any associated fees for the removal of a lien also fall under the exclusive jurisdiction of the Supreme Court.
14. While not binding on me, this conclusion is similar to the decisions in *Vigini v. Titan Slegg GP Inc.*, 2019 BCCRT 661 and *Rai v. AM PM Landscaping & Tree Service Ltd.*, 2019 BCCRT 712, which I find persuasive. In short, if either party wants to

contest the debt giving rise to the lien, they need to do that using the Supreme Court process set out in the BLA. I find the Supreme Court process includes any order for payment of the cost to file or remove the lien.

15. Under section 10 (1) of the Act, the tribunal must refuse to resolve a claim that it considers is not within its jurisdiction. As I have found the applicant's claim is under the exclusive jurisdiction of the Supreme Court, I find the tribunal does not have jurisdiction to resolve this dispute and I refuse to resolve it under section 10 (1) of the Act.

ORDER

16. I refuse to resolve the dispute under section 10 (1) of the Act.

Sarah Orr, Tribunal Member