



Civil Resolution Tribunal

Date Issued: July 31, 2019

File: SC-2019-000439

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Scott v. Vega Line Enterprises Inc.*, 2019 BCCRT 926

BETWEEN:

JOANNE SCOTT

APPLICANT

AND:

VEGA LINE ENTERPRISES INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kathleen Mell

INTRODUCTION

1. The applicant, Joanne Scott, contracted with the respondent, Vega Line Enterprises Inc., for moving services. The applicant says that the respondent confirmed a date to pick up her belongings but then did not show up. The respondent refunded the applicant's \$100.00 deposit. However, the applicant seeks a total of \$2,425.29 in compensation for the extra costs she paid to hire another mover at the last minute, and compensation for the person who waited all day for the respondent to arrive. The applicant is self-represented.
2. The respondent says that there was no guaranteed arrival date and that the applicant's date for the pick-up of her things was delayed because of other pickups and deliveries. It argues that it refunded the applicant's deposit and that the cost of the applicant hiring another mover was the same, so it is not obligated to reimburse her for any additional costs. The respondent is represented by Sam Horvath, who is the manager of the respondent.

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, where permitted under section 18 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

7. The issue in this dispute is whether the respondent breached the parties' moving services agreement and, if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

8. In a civil dispute such as this, the applicant must prove her claim. She bears the burden of proof on a balance of probabilities.
9. I will not refer to all of the evidence or deal with each point raised in the parties' submissions. I will refer only to the evidence and submissions that are relevant to my determination, or to the extent necessary to give context to these reasons.
10. The respondent does not say it did not enter into a contract with the applicant. The applicant has provided the respondent's quote for \$2,095.00 in CAD. The move was from a location in the United States to Canada.
11. On August 13, 2018, the respondent sent the applicant a confirmation of her booking and said that it had received her \$100.00 deposit. It told the applicant that her scheduled pickup was between November 25 and 30, 2018 and she would get a call from the dispatcher one day before to get an estimated time of arrival. The email said that all times provided were approximations and it was impossible to

determine exact timelines. It said that it provided estimated times of arrival and projected possible deliver dates as a courtesy, but that they were subject to change.

12. In its Dispute Response the respondent admits that it did not “service this move.” It says that, although it did not provide the moving services, the applicant did not suffer any loss because the amount she paid for the company who did provide the moving services was not higher. This is disputed by the applicant as set out below. The respondent chose not to provide evidence or submissions, despite being given the opportunity to do so.
13. The applicant says she called the respondent in mid-November to confirm and told them the home had been sold and the new owners were moving in on December 5, 2018. The respondent confirmed that everything was on track and that it would call her the night before the movers arrived.
14. On November 27, 2018, the driver confirmed it would pick up the applicant’s possessions on November 29, 2018. The applicant made arrangements for her mother’s elderly friend to wait for the moving truck to arrive. He spent the day there, but the truck did not show up. The applicant tried calling the truck driver and the respondent but there was no answer. She left a message but did not receive a callback. As late as December 3, 2018 the respondent’s phone representative told the applicant that they would get back to her but never did so.
15. The respondent says that the contract says that its schedule is not firm and that it would tell the applicant the night before the truck was arriving. However, the time stated in the contract is between November 25th to the 30th. The truck never arrived during this timeframe, or after. I acknowledge that the email stated that the exact time was subject to change, this suggests the hour or the day, but still within the 5-day window between November 25 to November 30, 2018.
16. Also, the applicant received reassurances in mid-November and then the respondent confirmed with the applicant on November 27, 2018 that it would arrive on November 29, 2018. Although this confirmation was not the night before, it

further guaranteed to the applicant that her move would be completed during the time set out in the contract. Additionally, the movers never showed up, this is further evidence that the respondent breached the terms of the contract.

17. Therefore, I find that the respondent breached the terms of the contract. This required the applicant to quickly make other arrangements for another mover.
18. Having found that the respondent did not fulfill the terms of the agreement, the question is what remedy is the applicant entitled to. The applicant says that because the home where her possessions were had been sold and the new owners were moving in she had to hire another company on short notice at a much higher cost.
19. She says that the new mover cost \$4,232.87 in Canadian dollars. She states that this was \$2,100.00 more than the respondent said it would cost. The applicant has provided the invoice from the second moving company which indicates that she paid \$3,165.00 on December 17, 2018 to have her possessions moved. The applicant says that this amount was in American dollars. As the applicant was moving from a place in the United States, I accept that the invoice is in American dollars. I also find that the rate of exchange calculated is reasonable.
20. Although this amount is much larger than the quote received from the respondent, I accept the applicant's evidence that it was last minute and she had to move her possessions immediately since somebody else was moving into the home. She says that she called many movers and had to book the only one that could help her on short notice despite the fact that the cost was so much higher.
21. Damages for breach of contract are generally intended to place an applicant in the position they would have been in if the contract had been carried out as agreed: *Water's Edge Resort Ltd. v. Canada (Attorney General)*, 2015 BCCA 319 at paragraph 39. Therefore, I find the applicant is entitled to \$2,100.00 as reimbursement for the money spent to hire another mover at the last minute.

22. The applicant claims \$2,425.29 as she also asks to be reimbursed for the time spent by the elderly friend who waited for the moving truck. The amount, based on the difference, appears to be \$325.29. There is no detail provided about whether the applicant paid this person to wait or whether this person had a job and therefore lost wages. Because there are no specifics about the time spent, the value of the time spent, or that the applicant paid this person and therefore suffered a monetary loss, I deny this part of the applicant's claim.
23. 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. As the applicant was successful in her claim she is entitled to have her \$125.00 tribunal fees reimbursed.

ORDERS

24. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$2,250.04, broken down as follows:
 - a. \$2,100.00 as compensation for the increased cost in hiring another mover,
 - b. \$25.04 in pre-judgement interest under the *Court Order Interest Act* (COIA) on the money paid to the new movers on December 17, 2018, and
 - c. \$125.00 as reimbursement for tribunal fees.
25. The applicant is also entitled to post-judgement interest under the COIA. I dismiss the applicant's remaining claim.
26. 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.

27. 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.

Kathleen Mell, Tribunal Member