



# Civil Resolution Tribunal

Date Issued: August 14, 2019

File: SC-2019-002465

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jam Communications Inc. v. Fiji Support Society of Canada*,  
2019 BCCRT 963

B E T W E E N :

JAM COMMUNICATIONS INC.

**APPLICANT**

A N D :

FIJI SUPPORT SOCIETY OF CANADA

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about an unpaid December 2017 invoice for website development services. The applicant, Jam Communications Inc., says that the respondent, Fiji Support Society of Canada, owes \$2,100 for the work done.

2. The respondent says that it never agreed to the website's creation. Instead, the applicant bargained with LP, a volunteer with the respondent. The respondent says that LP had no authority to bind the respondent in a contract. LP is not a party to this dispute.
3. The applicant is represented by its principal, James Chan. The respondent is represented by its president, Udit Narayan.

## **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* (CRTA). 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 CRTA:
  - 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 in this dispute is whether the respondent owes the applicant \$2,100 for website development services.

## **EVIDENCE AND ANALYSIS**

9. 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.
10. The parties agree upon most of the facts in this dispute. In June 2016 LP attended the respondent's board of directors meeting. LP held a volunteer position with the respondent. She suggested to the board that it create a website to promote the respondent's activities. She said that she would get the website set up with help from friends. They did not discuss cost at the time.
11. Subsequently, in a June 27, 2016 email, LP wrote to the respondent's vice president, SC, that she had secured a website address for the respondent. She was now "just talking" to some friends and other people about putting the website together, and having it checked before it was displayed to the public. She added that she would follow up in a couple days with progress on the website. SC replied by thanking her.
12. Shortly after the June 2016 meeting LP contacted the applicant. The applicant agreed to provide his services to the respondent. However, the agreement was not documented and was entirely verbal. There was no substantive discussion on price or completion date.
13. In July 2017 the applicant provided a basic website design and LP provided suggested improvements. On December 19, 2017, the applicant sent an invoice to the respondent for the work done. To date, the respondent has refused to pay this

invoice. In a September 25, 2018 letter the respondent's vice president, PN, explained that the applicant's services were "unsolicited", not approved by the respondent's board of directors, and the website work contained inaccuracies. In a December 30, 2018 email, PN emphasized that LP did not have the ability to bind the respondent in a contract. PN also objected to some of the content of the developed website as violating the "society's interests & constitutional verbiage". The submissions and evidence before me do not explain what this means.

14. In summary, the evidence shows that the applicant worked under what he thought was a verbal contract with the respondent. He remains unpaid. The key point is whether LP had the ability to bind the respondent in a contract with the applicant.
15. As noted in *Keddie v. Canada Life Assurance Co.*, 1999 BCCA 541 (and recently followed in *Argo Ventures Inc. v. Choi*, 2019 BCSC 85), a principal may be held liable for the conduct its agent if the agent had actual or apparent authority. I find that LP acted as agent for the respondent and was given actual or apparent authority to bind it in a contract with the applicant. My reasons follow.
16. In *Keddie* the court noted that actual authority stems from the legal relationship between principal and agent, created by a consensual agreement. There is ample evidence that LP and the respondent had such an agreement. Another individual, KP, was the director of the respondent from July 2015 to June 2018. In a May 22, 2019 letter, KP said that in June 2016 the respondent authorized LP to reach out to the applicant to create a website. KP wrote that the respondent then authorized the applicant to complete the website. The respondent also provided materials to be included. KP noted that at the time, the respondent held no internal discussions about the need for further quotes or board approval before such steps were taken.
17. Two of the respondent's current directors and an assistant treasurer collectively signed another letter dated May 22, 2019. They all agree that the respondent authorized LP to reach out to the applicant to create the website at issue.

18. I find both of the May 22, 2019 letters to be compelling. They describe the type of consensual agreement referred to in *Keddie*, between principal and agent. These letters are also consistent with the June 27, 2016 email between LP and the respondent's vice president, SC, discussed earlier. The email shows that LP took active steps to obtain a website domain name for the respondent and SC approved of LP's efforts.
19. In addition to having actual authority, I find that LP had apparent authority. As noted in *Keddie*, apparent authority flows from a principal's outward conduct with third parties, such as the applicant. LP was a volunteer with the respondent and attended the June 2016 board meeting. The respondent provided materials to her (including pictures) for the applicant to complete its work. The respondent did nothing to show that LP was not its representative until well after the work was done.
20. The respondent did not disagree with the content of these letters or question their reliability. It relies upon the LP's status as a volunteer to suggest she could not bind the respondent. However, as noted above, LP's status as a volunteer is only one consideration in determining if she had actual or apparent authority as an agent. I find that, through its agent LP, the respondent contracted with the applicant for the website services at issue.
21. The remaining matter is what amount the applicant is owed. The applicant's December 19, 2017 invoice is for \$2,100. It lacks any breakdown of that amount. The parties agree that no discussion of price occurred beforehand. However, at common law, when the parties do not agree to an amount, the applicant is still entitled to reasonable payment for work performed: *Franssen v. Wilkinson*, 2019 BCCRT 903. There is no evidence or submission before me that the respondent expected the applicant to work for free.
22. The applicant submits that it normally charges \$5,000 for web design but reduced its fee to \$2,100 as it was working for a philanthropic organization. The applicant also submits that it provided a quality product as the respondent used the applicant's work for approximately a year without complaint.

23. I find the applicant accurately describes the facts. The respondent only complained of the quality of work in the September and December 2018 letters, many months after the work had been done and when the respondent sought to justify not paying the applicant. I therefore place greater weight upon the applicant's evidence of what his work was worth.
24. On balance, I find the applicant is entitled to the invoiced amount of \$2,100. He is also entitled to pre-judgment interest under the *Court Order Interest Act* (COIA) from the invoice date of December 19, 2017. I find that date to be appropriate as the invoice specifies that payment is due upon receipt.

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

25. Under section 49 of the CRTA, 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.
26. The applicant was successful in this dispute. I therefore award the applicant \$125 for reimbursement of tribunal fees. The applicant did not claim for dispute related-expenses.

## **ORDERS**

27. Within 30 days of this decision, I order the respondent to pay the applicant a total of \$2,278.73, broken down as follows:
- a. \$2,100.00 in debt,
  - b. \$53.73 in pre-judgment interest under the COIA from December 19, 2017,  
and
  - c. \$125.00 as reimbursement of tribunal fees.
28. The applicant is entitled to post-judgment interest under the COIA.

29. Under section 48 of the CRTA, 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.
30. Under section 58.1 of the CRTA, 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