Civil Resolution Tribunal

Date Issued: August 19, 2019

File: SC-2019-003340

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wieslaw Skowronek dba Vancouver Floors v. Hanson*, 2019 BCCRT 987

BETWEEN:

WIESLAW SKOWRONEK (Doing Business As VANCOUVER FLOORS)

APPLICANT

AND:

ROBERT HANSON

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about payment for a hardwood floor installation. The applicant, Wieslaw Skowronek (Doing Business As Vancouver Floors), says he completed a

hardwood floor installation project for the respondent, Robert Hanson, and says he has not been paid. The applicant claims a total of $4,368.

2. The respondent denies liability, and says that the floor installation was part of an ongoing barter system with the applicant in exchange for the respondent's automotive services. The respondent says the value of the automotive services he performed for the applicant exceeds the amount the applicant claims for the floor installation. The respondent did not file a counterclaim.

3. The parties are both self-represented.

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. Some of the evidence in this dispute amounts to a "he said, he said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38,

the British Columbia Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is an issue.

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 by 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 $4,368 for work performed.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.

10. The parties met while the respondent was an employee at an automotive service shop who performed work on the applicant's work vehicle. At some point, the respondent offered his services outside of the service shop and the applicant began having his vehicle serviced at the respondent's home.

11. The respondent says in return for performing work on the applicant's vehicle, the applicant agreed to install the respondent's hardwood flooring. However, the applicant says that he did not agree to perform the installation for free, and that he equally expected to be billed for the respondent's auto repair work. For the following reasons, I find the applicant is entitled to payment for the floor installation.

12. The evidence shows that since 2015 the applicant often asked for the respondent's help for vehicle-related issues. The applicant says that he paid for all the necessary parts and that he agreed to pay for the respondent's time at $60 per hour for the at-home service. The respondent states that the parties agreed to a rate of $85 per hour.

13. In the spring and summer of 2017, the applicant installed the respondent's hardwood flooring. The applicant says on June 14, 2017, he gave the respondent an invoice (#201358) for $4,368, and that the respondent said he did not receive it, so the applicant created another invoice (#201388) and left it in the respondent's mailbox. The applicant did not say when he created invoice #201388, or when he left it in the mailbox, but it is also dated June 14, 2017. The respondent says no invoice was "mention[ed], issue[d] or deliver[ed]" to him, until he received a copy of the Dispute Notice, after April 30, 2019. It is unclear to me whether the respondent was aware of the June 14, 2017 invoices or whether the invoices were made in June 2017 or some later date. However, I am satisfied, based on text messages produced by the respondent himself, that on November 4, 2018, the applicant provided what he called an "estimate" for the prior installation of the hardwood, totaling $4,894. It does not appear the respondent replied to the November 4, 2018 message. The discrepancy between the June 14, 2017 invoices for $4,368 and the November 4, 2018 "estimate" for $4,894 is not explained, but the applicant's claim is for the lower amount.

14. The respondent submitted numerous copies of undated time records which he says are records of the work done on the applicant's vehicles. The respondent says the records were made contemporaneously with the work performed, but, again, it is

unclear to me whether these records were made at the time the work was done, or later. In any event, I find that the fact the respondent kept track of the time he spent on the applicant's vehicles is not consistent with a barter agreement as alleged by the respondent. Additionally, I find that the fact the parties both claim to have discussed an hourly rate for the vehicle repair work is also inconsistent with an agreement to "trade services". As a result, I find there is insufficient evidence of a barter agreement.

15. Therefore, I find the applicant is entitled to payment for his work. There is no dispute that the applicant performed the work and that the respondent is happy with the work done. There is also no argument that the amount sought is unreasonable. I allow the $4,368 claimed by the applicant.

16. The respondent did not bring a counterclaim, but says the value of the hours he spent working on the applicant's vehicles is greater than the value of the applicant's claim. The respondent requests the value of the automotive repair services be set off against the applicant's claim. I note that the respondent's estimate of the vehicle repair work appears to be in excess of the tribunal's jurisdiction.

17. I have considered whether the damages discussed by the respondent are sufficiently connected to the parties' agreement that those damages, if proven, should be set off against anything reasonably owing for the floor installation (see: *Wilson v. Fotsch*, 2010 BCCA 226). However, as I have not accepted there was a barter agreement between the parties, I find there is not a sufficient connection between the applicant's claim for payment for the hardwood floor installation and the respondent's claim for auto repair services to warrant a set off. As noted earlier, the respondent did not file a counterclaim. In the absence of any counterclaim for payment for the respondent's auto repair services, I make no findings as to whether the applicant may owe the respondent compensation for the vehicle repair work.

18. I find that the respondent owes the applicant $4,368 for the hardwood floor installation. The applicant is also entitled to pre-judgment interest on this amount under the *Court Order Interest Act* (COIA) from December 4, 2018, one month after

he provided his final estimate to the respondent by text message. This totals $59.00.

19. Under section 49 of the CRTA, and the tribunal rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As the applicant was successful, I find that he is entitled to reimbursement of $175 in paid tribunal fees. No dispute-related expenses were claimed.

ORDERS

20. Within 30 days of the date of this decision, I order the respondent to pay the applicant a total of $4,602.00, broken down as follows:

    a. $4,368.00 for hardwood floor installation,

    b. $59.00 in pre-judgment interest under the COIA, and

    c. $175.00 in tribunal fees.

21. The applicant is also entitled to post-judgment interest under the *Court Order Interest Act*.

22. 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.

23. 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.

Andrea Ritchie, Vice Chair