



Civil Resolution Tribunal

Date Issued: August 26, 2019

File: SC-2019-000641

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Crown Aluminium Railing and Gates Ltd. v. Kollattu et al*,
2019 BCCRT 1012

B E T W E E N :

CROWN ALUMINIUM RAILING AND GATES LTD.

APPLICANT

A N D :

GEORGE KOLLATTU, VIVANTA HOMES LTD., and HOA QUOC HUA

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, CROWN ALUMINIUM RAILING AND GATES LTD. (Crown), claims \$3,990 for custom railings and gates it manufactured and installed at a Vancouver home (home).

2. The respondent HOA QUOC HUA owns the home and did not contract with Crown. Rather, Crown's contract was with the respondent builder VIVANTA HOMES LTD. (Vivanta) and/or the respondent GEORGE KOLLATTU, also known as George Vayalilkollattu. I infer that Mr. Kollattu is Vivanta's owner.
3. The respondents say that the work was poorly done and that Crown also damaged Mr. Hua's stair tiles, which they say cost \$600 to fix.
4. Crown is represented by Balraj Singh Sidhu, who I infer is an employee or principal. Mr. Kollattu represents himself and Vivanta. Mr. Hua represents himself.

JURISDICTION AND PROCEDURE

5. 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In the circumstances 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.
7. 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.

8. Under tribunal rule 9.3(2), in resolving this dispute the tribunal may do one or more of the following where permitted under section 118 of the CRTA: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUE

9. The issue in this dispute is to what extent, if any, the respondents must pay the applicant \$3,990 for custom railings and gates.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the burden of proof is on the applicant to prove their claims on a balance of probabilities. Although I have reviewed all of the parties' evidence and submissions, I have only referenced what I find necessary to give context to my decision. At the outset, I note that only Mr. Hua provided evidence, namely 2 excerpts from his contract with Vivanta, and 2 photos of damaged railings and tiles.
11. Crown's contract for the job was not submitted. Given the context of the limited evidence and submissions before me, I infer it was with either Vivanta or Mr. Kollattu.
12. Crown says the agreed price was \$3,450. After the initial scope of work was completed, Crown says Mr. Kollattu asked Crown to do some extra handrails at the front of the home, which Crown says it completed. According to Crown, the revised total job price became \$3,990, the amount claimed in this dispute.
13. In contrast, Mr. Kollattu originally said the agreed job price was \$2,000 plus GST. In his submissions, he says the contract price was \$2,200 plus GST. He says the job was for 60 linear feet of railings around the house, plus 2 small side gates and "some handrails on stairs". He says the agreed price was \$25 per linear foot for the railings, \$150 per gate and \$200 for handrails. Crown did not expressly dispute

these figures, but says it also installed 3 custom window wells. Again, Crown provided no documentation in support.

14. Crown provided no evidence at all, such as a quote or text messages it says it had with Mr. Kollattu where he allegedly promised to pay. Based on the limited evidence before me, I find the contract price was \$2,200 plus GST, as submitted by Mr. Kollattu.
15. As noted, Mr. Kollattu says that Crown damaged Mr. Hua's tiles in numerous places on the stairs because Crown used the wrong tools to drill the holes in the tiles. The respondents say it cost about \$600 to fix the damage and some tiles could not be fixed. Mr. Kollattu also says the side privacy gate was too short and did not provide any privacy, which Crown did not expressly dispute. Mr. Kollattu also says the handrails were too wobbly and he had to have someone else re-install them. He says he brought the concerns to Crown's attention numerous times, but Crown did not attempt to fix the problem.
16. Mr. Hua submits he is very unhappy with Crown's work, and in particular says the "front handrails" are unstable and unsafe. He says Crown used only 2 screws instead of 4 to hold them down, making them wobbly. Like Mr. Kollattu, he notes the cracked tiles where holes were drilled improperly. Crown denies breaking the "stone" the respondents allege it broke. However, Mr. Hua's photos show a railing bolt that is lifting up from the stone or tile below and cracks in the tile which appear to originate from the drilled holes in the tile. On balance, I find Crown broke the tiles.
17. In its reply submission, Crown says it has documentary evidence "plus independent witness" evidence that it finished the job to the respondents' satisfaction. Yet, again, Crown provided no evidence in support of its claim at all. I draw an adverse inference against Crown for failing to provide the evidence it says it had to support its claim it did a good job. In other words, I find Crown has not shown it is entitled to full payment because I find it did not complete the job to a reasonable professional standard.

18. The respondents did not provide a receipt for the \$600 it says it cost to repair the broken tiles. However, on balance I accept the tiles were broken given Mr. Hua's photos and given the absence of evidence from Crown. I find \$600 is a reasonable amount to deduct from the \$2,200 plus GST contract price.
19. While Mr. Kollattu asserts that in all the circumstances he does not owe anything, he also says he would still pay Crown \$1,600 plus GST, which reflects a \$600 deduction for the tile fix from the \$2,200 contract price. I find Crown did little to prove its claims and I have found it did not do the job adequately and it caused some damage. However, given his offer Mr. Kollattu acknowledges there was some value to the work done and he did not provide supporting evidence at all to show the alleged damage, apart from Mr. Hua's 2 photos of a broken tile and improperly bolted railing. On balance, I find payment of \$1,600 plus GST is a reasonable outcome.
20. Mr. Kollattu does not argue that he is not personally liable. Instead, Mr. Kollattu advances the same argument for himself and Vivanta: "I hired" Crown. I find Mr. Kollattu and Vivanta jointly and severally liable. I dismiss Crown's claim against Mr. Hua, as there is no evidence he contracted with Crown. Crown's only argument against Mr. Hua was that he allegedly promised to pay Crown, but Crown provided no evidence to support that claim.
21. I find the applicant Crown is entitled to an order for \$1,680, payable by Mr. Kollattu and Vivanta. Crown is entitled to pre-judgment interest under the *Court Order Interest Act* (COIA) on \$1,680, from June 30, 2017, which I consider reasonable based on my best estimate of when the debt became due. As noted, the parties' contract is not in evidence. This interest equals \$49.60.
22. Under the CRTA and the tribunal's rules, the successful applicant is usually entitled to reimbursement of their tribunal fees and reasonable dispute-related expenses. Crown was only partially successful and so I order reimbursement of half the \$175 in paid tribunal fees, namely \$87.50. There were no dispute-related expenses claimed.

ORDERS

23. Within 14 days of this decision, I order Mr. Kollattu and Vivanta to pay Crown a total of \$1,817.10, broken down as follows:
- a. \$1,680 in debt,
 - b. \$49.60 in pre-judgment interest under the COIA, and
 - c. \$87.50 in tribunal fees.
24. Crown's claims against Mr. Hua are dismissed. Crown is entitled to post-judgment interest, as applicable.
25. 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.
26. 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.

Shelley Lopez, Vice Chair