



Civil Resolution Tribunal

Date Issued: August 26, 2019

File: SC-2019-002010

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *CONTAIN-A-WAY SERVICES LTD. v. Glazier*, 2019 BCCRT 1010

B E T W E E N :

CONTAIN-A-WAY SERVICES LTD.

APPLICANT

A N D :

RONALD JAMES GLAZIER

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This is a final decision of the Civil Resolution Tribunal (tribunal) dismissing the applicant's claims on the basis they are out of time. My reasons follow.

2. The applicant, Contain-A-Way Services Ltd., is represented by Burt Campbell, whom I infer is a principal or employee. The respondent, Ronald James Glazier, is self-represented.

JURISDICTION AND PROCEDURE

3. These are the tribunal's formal written reasons. 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.
4. 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 of this dispute, I find that I am properly able to assess and weigh the 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.
5. The tribunal case manager referred the issue of whether the applicant's claims were potentially out of time to me for a decision. The tribunal obtained submissions from the parties. While final, my decision is therefore not a decision on the merits of the claim.
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 an order one or more of the following orders:
 - 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.

EVIDENCE AND ANALYSIS

8. The *Limitation Act* applies to disputes before the tribunal. A limitation period is a period within which a person may bring a claim. The basic limitation period under section 6 of the *Limitation Act* is 2 years. If that period expires, the right to bring the claim ends, even if the claim would have otherwise been successful.
9. The applicant filed the Dispute Notice on March 10, 2019. In the circumstances here, this means that if the claim arose before March 10, 2017, the applicant is out of time.
10. This dispute is about whether the respondent owes the applicant for a disposal bin rental and dump fees for residential renovations done in 2016. In its submissions the applicant provided a rough timeline of events. It says that it attempted to resolve payment for its services for a year and a half. These efforts included at least one telephone call. The applicant then sent the file to two collections agencies, one of which was J. McMillan Bailiff and Collections (J. McMillan). The applicant says the collections agencies had the file and attempted collections for “about a year”.
11. The respondent says that the applicant has been asking for payment for over 3 years. He submits that, before being served with the Dispute Notice, J. McMillan sent a September 16, 2016 letter asking for payment of the applicant’s claim. Although the timing of this letter is not entirely consistent with the applicant’s submissions, I find this letter was likely sent in September 2016 as described. I base my conclusion on the applicant’s acknowledgement that it used the services of J. McMillan and the fact that the applicant did not deny the existence of the September 16, 2016 letter in its response.

12. Section 8 of the *Limitation Act* provides that a claim is discovered by a person on the first day that person knew, or reasonably ought to have known:
 - a. that injury, loss or damage had occurred;
 - b. that the injury, loss or damage was caused by or contributed to by an act or omission;
 - c. that the act or omission was that of the person against who the claim is or may be made; and
 - d. that, having regard to the nature of the injury, loss or damage, a court proceeding would be an appropriate means to seek to remedy the injury, loss or damage.

13. The applicant submits that it never abandoned or stopped trying to resolve its claim. However, under section 8 of the *Limitation Act*, the discovery date for a claim is not related to whether or when a claim is “abandoned”.

14. I find that this claim was discovered by September 16, 2016 at the latest. By that time the applicant had sent its unpaid account for collections. The applicant therefore knew, or reasonably ought to have known, that a legal proceeding would have been an appropriate means to seek a remedy against the respondent. It follows that the limitation period expired on September 16, 2018. My conclusion is supported by the fact that, even under the applicant’s own timeline, it knew that it had a claim for approximately 2½ years. This is a greater period of time than the basic limitation period of 2 years.

15. I therefore order this claim dismissed as out of time or statute-barred under the *Limitation Act*. As the applicant was unsuccessful in this dispute, I do not order any reimbursement of its tribunal fees.

ORDER

16. I order the applicant's claims and this dispute dismissed, on the basis that the claims are out of time.

David Jiang, Tribunal Member