



# Civil Resolution Tribunal

Date Issued: September 12, 2019

File: SC-2019-001832

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *NPGH Services Inc. dba Sunfarm No.5 v. 1104870 B.C. Ltd.*,  
2019 BCCRT 1073

B E T W E E N :

NPGH SERVICES INC. DBA SUNFARM NO.5

**APPLICANT**

A N D :

1104870 B.C. Ltd.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. This dispute is about payment for groceries. The applicant, NPGH Services Inc. dba Sunfarm No.5, says the respondent owes \$4,510.10. The applicant also claims 4.25% interest on its overdue invoices, which I infer to be an annual rate.

2. The respondent, 1104870 B.C. Ltd., doing business as Lighthouse Restaurant Ltd., admits it had bought groceries from the applicant since at least May 2018. However, the respondent says that as of around October 2018 the respondent noticed the applicant was charging for items the respondent did not purchase. The respondent says it asked for individualized signed invoices but the applicant failed to provide them.
3. The applicant is represented by Virendra Sharma and the respondent is represented by Gurpreet Ranu. Both representatives are employees or principals of their respective corporations.

## **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. 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. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in 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 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**

8. The issue in this dispute is to what extent, if any, the respondent owes the applicant \$4,510.10, plus interest, for groceries.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, the burden of proof is on the applicant to prove its 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.
10. The applicant claims a total of \$4,510.10 for groceries it says the respondent picked up from its store in November 2018 (\$2,292.73) and December 2018 (\$2,217.37).
11. The evidence shows the respondent was ordering groceries from the applicant at least by May 2018, if not before. Nothing turns on the precise start date. The applicant argues that the parties' once cordial relationship soured when in October 2018 the applicant decided not to sell its business to the respondent. The evidence, including text messages setting out the parties' exchanges about the respondent's grocery orders, shows the parties had an informal and amicable relationship, at least until around October 2018. The business sale issue is not before me for decision in this dispute. However, the applicant says when the business sale fell through the respondent demanded payment of its expenses incurred for doing its due diligence for the failed business purchase. The respondent did not specifically

address this submission, and based on the text message setting out the respondent's demand for expenses I accept there was conflict about the failed business sale and that this may have been a reason the respondent failed to pay the applicant's invoices at issue in this dispute.

12. The applicant submits that around this time in October 2018 the respondent's "order and pick up routine" from the applicant's grocery store continued as usual but with increased frequency. The applicant submits this made them "a little suspicious about their motive". It is not clear to me how increased frequency of grocery purchases caused the applicant to question the respondent's motive about anything. That said, to some extent the evidence shows the respondent ordered more groceries in November and December 2018 than it had in the past.
13. In any event, the applicant started asking in text messages that the respondent pay its pending bills. The applicant says the respondent kept delaying payments while still continuing to pick up groceries from the applicant's store. The applicant says that after repeated reminders and requests for payments of November and December 2018's bills, on January 4, 2019 Mr. Ranu suddenly asked the respondent to present individually signed invoices. I find this description is supported by the texts and Mr. Ranu's January 4, 2019 email.
14. In contrast, the respondent submits it has "no problem paying I just need some sort of proof". The respondent reiterates its statement in its Dispute Response filed at the outset of this proceeding: that it kept reminding Mr. Sharma to make sure all the bills are signed. In its reply submission, the applicant says the issue of signing invoices was never discussed or practiced by Mr. Ranu or his family members who used to pick up the grocery order after "checking and verification".
15. So, what is the evidence about the invoices and the parties' agreement about the respondent signing them? Here, I note the respondent provided only a brief submission, and no evidence.

16. The applicant says the respondent was paying bills at the end of every month, “on the basis of hardcopies of teller receipts provided”. From October 2017 onwards, the applicant says it emailed the respondent at every month-end with a statement and hardcopy of all invoices. The respondent then mailed a cheque to the applicant, until October 2018. I accept this evidence, which is undisputed and is supported by emails in evidence.
17. The applicant relies on WhatsApp text messages with the respondent to show the respondent had “constant communication” with the applicant’s store manager for confirming prices, quantity, and quality of the items ordered. The applicant says nowhere in those texts was there ever any discussion about signing an invoice.
18. I agree with the applicant. I find the respondent’s January 4, 2019 request for signed invoices for November and December 2018 was a unilateral and after-the-fact revision of the parties’ agreement. In other words, I find the parties’ agreement, established by past practice, was that the respondent’s agents would pick up the groceries from the applicant’s store and there was never any expectation they would sign invoices. I reject the respondent’s unsupported submission that “in or about October 2018” it told the applicant that at the next pick up the respondent required an individualized invoice for the respondent to sign. Further, if that was the respondent’s expectation, it has provided no explanation for why it kept picking up groceries in November and December 2018 without the signed individualized invoices. Given the parties’ method of communicating by text and email, I would expect to see some written documentation about signed invoices before January 4, 2019, if that had been the parties’ agreement.
19. On balance, I find it more likely than not that the respondent ordered the groceries as invoiced, which is supported by the parties’ text messages, handwritten receipts, and the applicant’s invoices. I find there was no requirement for the applicant to obtain the respondent’s signature on the invoices. I find the respondent owes the \$4,510.10 claimed for the November and December 2018 invoices.

20. As noted above, the applicant claims 4.25% interest. There is no suggestion the parties agreed to contractual interest and there is nothing on the face of the applicant's invoices that mentions interest. As such, I find the applicant is entitled to only pre-judgment interest under the *Court Order Interest Act* (COIA). The applicant's \$2,292.73 bill for the November 2018 groceries was dated December 3, 2018. The \$2,217.37 bill for the December 2018 groceries was dated January 2, 2019. Based on the invoice dates, I calculate the interest owing as \$63.97.
21. Under the CRTA and the tribunal's rules, the successful applicant is generally entitled to reimbursement of their tribunal fees and reasonable dispute-related expenses. I find the applicant is entitled to reimbursement of \$175 in paid tribunal fees and \$11.08 in dispute-related expenses for serving the Dispute Notice, which I find reasonable.

## **ORDERS**

22. Within 14 days of this decision, I find the respondent must pay the applicant a total of \$4,760.15, broken down as follows:
- a. \$4,510.10 in debt,
  - b. \$63.97 in pre-judgment interest under the COIA, and
  - c. \$186.08, for \$175 in tribunal fees and \$11.08 in dispute-related expenses.
23. The applicant is entitled to post-judgment interest, as applicable.
24. 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.
25. 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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Shelley Lopez, Vice Chair