Civil Resolution Tribunal

CRT USE ONLY

Date: November 14, 2019
File: SC-2019-008089
Type: Small Claims

BETWEEN:

Please enter legal names of all applicants exactly as they appear on the Dispute Notice or on the most recent Amended Dispute Notice

GOLFBC HOLDINGS INC. DBA GALLAGHER'S CANYON GOLF CLUB

APPLICANT[S]

AND:

Please enter legal names of all respondents exactly as they appear on the Dispute Notice or on the most recent Amended Dispute Notice

CARLOS NOUBANI

RESPONDENT[S]

DEFAULT DECISION AND ORDER

CRT USE ONLY

DEFAULT DECISION AND ORDER

Tribunal Member: Sarah Orr
Date: November 14, 2019

A: MONETARY CLAIMS AND ORDERS	Claim Amount ($)	*CRT USE ONLY* Order ($)
1. Describe claim "1" (claim summary for claim 1, from Dispute Notice): Damage to chain link fence on our property after he hit it with his truck. He had no auto insurance. If claim 1 is a non-debt claim, describe evidence to support the amount of claim 1. (see above for information on debt claims and non-debt claims) We had acknowledgment of the fence damage on the police report. We brought a fence company out to Gallagher's to quote on the repair. Both are attached to return email.	$2675.00	$2,675.00
2. Describe claim "2" (claim summary for claim 2, from Dispute Notice): --- If claim 2 is a non-debt claim, describe evidence to support the amount of claim 2. (see above for information on debt claims and non-debt claims) ---	$0.00	$0.00
3. Describe claim "3" (claim summary for claim 3, from Dispute Notice): --- If claim 3 is a non-debt claim, describe evidence to support the amount of claim 3. (see above for information on debt claims and non-debt claims) ---	$0.00	$0.00

B. NON-MONETARY CLAIMS - OTHER ORDERS

(For example, requests for a party to do or stop doing something)

If you would like the tribunal to order a party to do or stop doing something, include it below. Do not add anything that was not requested in the Dispute Notice. Explain what you would like the tribunal to order, and why you would like the order. Examples might include: “an order that the respondent finish painting my door as we agreed”. Note, the CRT will not generally order a respondent to do something in a small claims dispute, if an order to pay money would be sufficient.

In small claims, the CRT can’t make an order for someone to do something or stop doing something, unless it is for recovery of personal property, specific performance of an agreement relating to personal property or services, or for relief from another person’s claim for recovery of personal property from you.

REQUESTS FOR A PARTY TO DO OR STOP DOING SOMETHING

Party name: ----------	**What would like them to do or stop doing?** ----------
Why? ----------	

Party name: ----------	**What would like them to do or stop doing?** ----------
Why? ----------	

C. CRT FEES AND DISPUTE-RELATED EXPENSES

You can claim CRT filing fees and reasonable expenses you paid to prepare for the CRT dispute resolution process. Generally, the CRT will not order the reimbursement of fees paid to a lawyer or other representative. If you are claiming more than $50, please submit your receipts to the tribunal by email, along with this form. For expense claims for $50 or less, retain your receipts in case the CRT requests them later.

CRT Fees and Expenses Description	Expense Amount ($)	*CRT USE ONLY* Order ($)
a. Service fees if the CRT advised you that you must serve the Dispute Notice and instructions for response (For example, fees for courier or registered mail.) *(receipts required, if total of a. service fees, b. cost of expert reports, and c. other expenses is more than $50)*	$0.00	$0.00
b. Cost of expert reports to support CRT claim *(receipts required, if total of a. service fees, b. cost of expert reports, and c. other expenses is more than $50)*	$0.00	$0.00
c. Other expenses *(receipts required if more than $50)* *expense description:*	$0.00	$0.00
d. CRT Application and other CRT fees		$100.00
Total fees and dispute-related expenses		$100.00

D. INTEREST

Please enter the interest rate that applies to your claim. Note that interest applies only to monetary orders (debt and non-debt) and doesn't apply to non-monetary awards. The interest rate must be specified in your contract or strata bylaws and claimed in your Dispute notice (do not submit your contract.). If it is not, please refer to the Court Order Interest Act to identify the applicable interest rate. The CRT will calculate interest from the date of the Dispute Notice to the date of the Default Order. For more information on Court Order Interest please see:

http://www.courts.gov.bc.ca/supreme_court/about_the_supreme_court/Court_Order_Interest_Rates.aspx

NOTE: If you don't calculate your interest claim correctly, or tick the box below to waive your claim, the CRT will return your form. There will be a delay in getting your default decision and order from the CRT.

Interest Item	**Applicant Submission**	***CRT USE ONLY*** **Order ($)**
1. Principal amount owing as of date of the dispute notice:	$0.00	$0.00
2. Contractual rate of interest (if any, specified as an annual rate) Leave this blank if you didn't claim a contractual rate of interest in the Dispute Notice (you will be entitled to interest below, under the Court Order Interest Act).	%	%
3. Interest on principal amount owing up to the date of the dispute notice calculated according to the contractual rate (above, if applicable) or the **Court Order Interest Act**	$0.00	$0.00
4. Interest from the Dispute Notice date to the Default Order date FOR CRT USE ONLY		$0.00
Total interest order:		$0.00

☑ I am waiving my claim for interest

☐ I am claiming contractual interest, but the total principal amount and contractual interest amount is more than $5,000. I am abandoning the amount of my claim over $5,000.

(The CRT can't make an award of principal and contractual interest that exceeds $5,000.)

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The applicant is also entitled to post-judgment interest.

TOTAL MONETARY ORDER:

$2,775.00



Civil Resolution Tribunal

CRT Default Decision and Order

The applicant(s) applied for small claims dispute resolution with the Civil Resolution Tribunal (CRT or tribunal) and requested a default decision and order of the tribunal. The following is the tribunal's Default Decision and Order.

CRT DECISION

Proof of Notice:

1. A respondent must respond to a Dispute Notice within 14 days of receiving the Dispute Notice, as indicated on the Dispute Response Form or as permitted by the tribunal. A respondent served outside of British Columbia has 30 days to respond, instead of 14 days.

2. Having reviewed the evidence, I am satisfied, on the balance of probabilities, that the respondent(s) received the Dispute Notice and did not respond to it by the deadline set out in the tribunal's rules.

Jurisdiction:

3. The tribunal's jurisdiction is set out under sections 118 and 121 of the *Civil Resolution Tribunal Act* (CRTA). The applicable tribunal rules are those in place at the time the Dispute Notice is issued.

4. The tribunal will make a binding decision without the participation of the respondent(s). The tribunal will send the parties a copy of the final decision and order.

5. Where permitted under the CRTA and the tribunal's rules, in resolving this dispute the tribunal may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

Decision:

6. In accordance with the CRTA and the tribunal's rules, I find the respondent(s) must pay the applicant(s) the monetary amounts as set out in the preceding pages. This amount is payable immediately.

7. I find the applicant(s) is entitled to any applicable post-judgment interest, which is not included as part of the "total order" amount.

CRT ORDER

8. In accordance with the CRTA and the tribunal's rules, further to the decision set out above, I order the respondent(s) to immediately pay the applicant(s) the monetary orders set out in the preceding pages. The applicant(s) is entitled to post-judgment interest.

9. As set out in 58.1(3) of the CRTA, a party may only enforce this order if the time for making a notice of objection has passed and a Notice of Objection has not been filed. The party in default has no right to make a Notice of Objection, as set out in section 56.1(2.1) of the CRTA.

10. Orders for financial compensation or the return of personal property can be enforced through the Provincial Court of British Columbia, so long as the principal value is within its jurisdiction under the *Small Claims Act* (currently $35,000). The applicant(s) can enforce this final decision by filing in the Provincial Court of British Columbia a validated copy of this Order. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Tribunal Member: Sarah Orr

Tribunal Member Signature: _____