



Civil Resolution Tribunal

Date Issued: November 26, 2019

File: SC-2019-005822

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *High Mark Mechanical Services Ltd v. Gill*, 2019 BCCRT 1324

B E T W E E N :

HIGH MARK MECHANICAL SERVICES LTD

APPLICANT

A N D :

KULDIP GILL

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. The applicant, High Mark Mechanical Services Ltd, is claiming \$3,190.89 for installing a gas line at the respondent Kuldip Gill's home.

2. The respondent says the applicant quoted between \$900.00 and \$1,100.00 for the job. The respondent says he did not agree to pay \$3,190.89, which he says is too much for the job done.
3. The applicant is represented by an employee or principal. The respondent is 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, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue. Further, bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.
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 under 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 applicant is entitled to \$3,190.89 for gas line installation services.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant bears the burden of proving its claims on a balance of probabilities.
10. It is undisputed that the applicant installed a gas line at the respondent's home in July 2019 and the respondent did not pay the invoiced amount. The parties dispute how much the respondent owes for the job.
11. According to the dispute notice, the applicant claims the job was on a time and materials basis. The applicant alleges that the respondent signed the work authorization allowing it to proceed on that basis and that the respondent signed off on the \$3,190.89 invoice. The applicant is claiming \$3,190.89 but submits it will lower the price to \$2,800.00 as a goodwill gesture.
12. The respondent says the applicant only quoted between \$900.00 and \$1,100.00 for the job. The witness statement of the respondent's trades person "JL" says he had knowledge that the applicant quoted \$1,100.00 maximum. JL says he assisted the respondent with obtaining quotes from gas fitters and he, JL, had discussed the applicant's quote with the respondent. The respondent provided two other witness

statements from individuals who also say they discussed this quote range with the respondent. While these witness statements are not proof of the actual quote, which is not in writing, I find they support the respondent's understanding of the expected job cost.

13. The respondent says that he specifically told the applicant that "no work was to be started until an accurate price was given" but then, the applicant started the work while the respondent was away and prior to confirming the price. The respondent says the gas fitter admitted to him that he forgot to confirm the price as required before proceeding with the job. The respondent says he immediately disputed the price. He says the gas fitter required him to sign off on the job to confirm the work was done, which he signed, but not on the price. There are 4 witness statements in evidence that confirm this version of events. I accept the parties agreed the applicant would firm up the price before starting and that it did not. I also find the respondent did not agree to pay on a time and materials basis with no upper limit or to the invoiced amount.
14. Despite carrying the burden of proof, the applicant provided no evidence to support its claim other than its own statements. For example, it provided no written quote, conversation notes, work authorization, or invoice. Tribunal's rule 8.1(1) requires a party to produce all evidence in their possession that may prove or disprove an issue in the dispute, even if the evidence does not support the party's position. I draw an adverse inference that the applicant failed to produce relevant documents because they were not helpful to its claim. Therefore, I find the applicant has not proven it is entitled to the claimed \$3,190.89, or the lowered amount of \$2,800.00
15. Even though the parties had no firm agreement on price, I find the applicant is entitled to reasonable payment for the work done on the gas line. This is known in law as '*quantum meruit*', or value for work done.
16. As noted above, the respondent says the applicant quoted \$900 to \$1,100 for the job, which the applicant does not specifically deny quoting. Further, the respondent provided two gas fitting quotes from other companies for \$1,150.01 and \$1,128.75,

which are close to the quoted price. The respondent also says the applicant delayed the job, but he is not looking to “recoup” the costs. The respondent says the applicant used some poor-quality materials and provided photographs showing the pipe fittings were rusted. His tradesperson, JL, says the applicant used a more expensive pipe size than necessary. JL also stated that the gas fitter had difficulties with the job and JL ended up finishing the gas line himself. The applicant provided no evidence to the contrary, though I find it had the opportunity in reply. However, the respondent does not claim a set off or details to quantify JL’s time.

17. On a judgment basis, I will allow \$900.00 for the gas line job, which is the low end of the quote.
18. The *Court Order Interest Act* (COIA) applies to the tribunal. The applicant is entitled to pre-judgment interest on the \$900.00 debt from July 3, 2019, the day after the job was complete, to the date of this decision. This equals \$7.07.
19. Under section 49 of the CRTA and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. The applicant was partially successful in this dispute and I will allow ½ his claim for tribunal fees (\$87.50). Neither party claimed dispute-related expenses, so I award none.

ORDERS

20. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$994.57, broken down as follows:
 - a. \$900.00 for the debt,
 - b. \$7.07 in pre-judgment interest under the COIA, and
 - c. \$87.50 in tribunal fees.
21. The applicant is entitled to post-judgment interest, as applicable under the COIA.

22. The applicant's remaining claims are dismissed.
23. 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.
24. 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.

Trisha Apland, Tribunal Member