



Civil Resolution Tribunal

Date Issued: December 31, 2019

File: SC-2019-004605

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *West Core Metal Works Ltd. v. Winspia Windows (Canada) Inc.*,
2019 BCCRT 1452

B E T W E E N :

WEST CORE METAL WORKS LTD.

APPLICANT

A N D :

WINSPIA WINDOWS (CANADA) INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This small claims dispute is about outstanding invoices for window-related construction. The applicant, West Core Metal Works Ltd., says that the respondent, Winspia Windows (Canada) Inc., refuses to pay for some of the work the applicant

completed. The applicant asks for an order that the respondent pay the outstanding amount of \$4,673.55. The respondent admits that it has not paid all the applicant's invoices, but says that it does not owe the applicant anything as it has been overcharged.

2. An employee represents each party.

JURISDICTION AND PROCEDURE

3. 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.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
5. 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.
6. 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

7. The issue in this dispute is whether the respondent must pay the applicant \$4,673.55 for outstanding invoices.

EVIDENCE AND ANALYSIS

8. In a civil dispute like this one, an applicant bears the burden of proof on a balance of probabilities. The applicant provided evidence and both parties provided submissions in support of their respective positions. While I have considered all of this information, I will only refer to what is necessary to provide context to my decision.
9. As noted above, the applicant says that the respondent has failed to pay its invoices in the amount of \$4,673.55. The respondent does not dispute the amount claimed by the applicant and admits that it has not paid all of the applicant's invoices. According to the respondent, it has been the applicant's customer for many years and felt valued by the applicant until it analyzed previous invoices and determined that it had been charged inflated prices. The respondent states that its management decided not to pay the outstanding amounts as a result of the alleged overpayments in the past.
10. The invoices reflect the applicant's work in fabricating metal window sills and flashing. The respondent questions why the average price for each task is different, particularly the bending tasks. The applicant says that the respondent has only been charged for the time spent on each job. According to the applicant, each job is different, and the time spent on it depends on how much work there is to be done, as well as on the types and number of bends or breaks, and the number of pieces required.
11. The evidence before me contains 12 invoices from the applicant to the respondent totaling \$4,673.55 (after taking into account a \$40.95 credit memo to invoice 703). In addition, there are 12 time sheets showing the number of hours spent on the

work documented on each invoice. The tasks described on the invoices vary, but are all charged at a rate of \$100 per hour. The total on each invoice corresponds to the number of hours attributed to the project charged at this rate, plus taxes.

12. Although the respondent states that it was overcharged on previous invoices from the applicant, it did not file a counterclaim or provide any evidence to support this submission. In particular, the respondent did not provide copies of the impugned invoices or a report from another metal work professional to support the suggestion that the time charged for each task was excessive or outside the agreed-upon scope of work. I find that there is insufficient evidence for me to consider the possibility that the respondent has incurred damages that could be set-off against the amount owing to the applicant (see *Wilson v. Fotsch*, 2010 BCCA 226 for the applicable criteria for an equitable set-off).
13. Based on the evidence before me, I am satisfied that the applicant has shown that it performed the work listed on each of the 12 outstanding invoices. I find that the respondent has not established that it was overcharged such that it was entitled to make any deductions from the amount owing to the applicant. I find that the respondent is responsible for the \$4,673.55 claimed by the applicant.
14. The applicant does not claim contractual interest. However, I find that it is entitled to pre-judgment interest under the *Court Order Interest Act*. Calculated from March 1, 2019 (which was the date of the applicant's demand for payment), this equals \$76.40.
15. Under section 49 of the CRTA and tribunal rules, the tribunal generally will order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175.00 in tribunal fees. The applicant did not make a claim for dispute-related expenses.

ORDERS

16. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$4,924.95, broken down as follows:
 - a. \$4,673.55 in payment of the outstanding invoices,
 - b. \$76.40 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175.00 in tribunal fees.
17. The applicant is entitled to post-judgment interest, as applicable.
18. 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.
19. 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.

Lynn Scrivener, Tribunal Member