



Civil Resolution Tribunal

Date Issued: February 26, 2020

File: SC-2019-008438

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lawn Genius Manufacturing (Canada) Inc. dba Drain Master v. Chen, 2020 BCCRT 218*

B E T W E E N :

LAWN GENIUS MANUFACTURING (CANADA) INC. DBA DRAIN
MASTER

APPLICANT

A N D :

XUSHENG CHEN and YU XIN LI

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This is a dispute about payment for plumbing services. In June 2019 the respondents, Xusheng Chen and Yu Xin Li, hired the applicant, Lawn Genius

Manufacturing (Canada) Inc. dba Drain Master, to elevate and connect a main sewer pipe in their house to the city connection after their basement flooded. The applicant claims it is still owed \$2,200 plus interest for plumbing work.

2. The respondents paid \$9,000 out of the \$11,200 invoice and deny that they owe the applicant any further payments. The respondents say the applicant did not complete the work as agreed and say they had to hire another plumber to finish it.
3. The applicant is represented by an employee and the respondents are 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, 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.
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. Where permitted by section 118 of the CRTA, 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.

ISSUE

8. The issue in this dispute is whether the applicant completed all the plumbing work that it was hired to do and if so, what are the appropriate remedies?

EVIDENCE AND ANALYSIS

9. The parties provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only what is necessary to provide context to my decision.
10. On June 6, 2018 the respondents' basement flooded after a sewer back up. The respondents contacted the applicant who inspected their home and told them they should install a main sewer pipe from the house to the city connection at a higher elevation than the one they had. The dispute is over whether the applicant was supposed to reconnect pipes that were originally attached to the main sewer pipe after it was elevated.

What was the scope of the parties' agreement?

11. The applicant says that it was hired to perform "All services related to installing a sewer main from the house connection to the city connection at a higher elevation through the garage."
12. The applicant sent the respondent a quote before starting any work. Neither party provided a copy of this quote. The applicant says that the respondent called to seek further clarification after receiving the quote. Again, neither party provided details of any phone calls between them. However, they did provide several emails.
13. After receiving the quote, the respondents emailed the applicant a list of questions. Most of the questions are irrelevant for the purposes of this decision. The one question of significance was "Can you please ensure the plumbing system will be readily available to support all areas including up stairs and basement after completion of the subject project in relates to your quote?" (quote reproduced as

written). The respondents also stated that they did not have any experience with house projects and were taking precautionary measures to make sure things were completed properly.

14. The applicant emailed back on June 20, 2018 and responded “Yes, all the plumbing in the whole house will be connected to the piping we install.”
15. On June 21, 2018, the applicant emailed another quote to the respondents for \$11,200 which included GST. The \$11,200 was a lump sum and the applicant did not provide a break down of how that amount was calculated. The applicant stated in the quote that it would install a “sewer main” from the house connection to the city connection at a higher elevation through the garage and that this included:
 - a. Concrete cutting & breaking.
 - b. Excavation.
 - c. 4” pipe & fittings.
 - d. Pipe boring.
 - e. House connection.
 - f. City connection.
 - g. Backfilling & clean up.
 - h. Concrete repair.

The quote also stated that payment was due in full upon completion of the work.

16. I find that the applicant intended the quote to be a general overview of the work involved and not an itemized breakdown of every step for installing a sewer main from the house connection to the city connection at a higher elevation. For example, the evidence shows that the applicant disconnected 3 pipes that were attached to the main sewer pipe before moving it, even though the quote did not refer to this

initial step. I find that the reference to “house connection” in the quote reasonably included that the applicant would disconnect and then reconnect pipes attached to the main sewer pipe.

Did the applicant complete the work?

17. The respondents say that before the applicant started work, a total of 3 pipes from the upstairs, basement bathroom, and kitchen sink/washing machine were connected to the main sewer pipe. They say that the applicant did not reconnect the 3 pipes after the applicant finished moving the main sewer pipe to a higher elevation.
18. The respondents provided several photos of the main sewer pipe in their basement. The respondents labelled the pipes to the upstairs, basement bathroom, main line, kitchen sink, and washing machine in the photos. The applicant did not dispute the accuracy of the photos or the labels.
19. The respondents provided 2 undated photos of the basement pipes that they say were taken before the applicant moved the main sewer pipe. The 3 pipes appeared to be intact and connected to the main sewer pipe. While the applicant says the basement was completely gutted due to the flood, it did not state that the 3 pipes had been disconnected from the main sewer pipe. I find the 3 pipes were connected to the main sewer pipe at the time the applicant inspected the basement. I also find that the applicant or its subcontractor disconnected the 3 pipes from the main sewer pipe prior to elevating it.
20. The respondents provided a photo of the work that the applicant did which shows that the main sewer pipe was shortened and elevated by several feet. There are 2 pipes that are labelled as leading to the upstairs, and basement bathroom that are cut and not connected to anything. These pipes are much shorter than they were in the original photos. The respondents also indicated on the photo that there is another pipe that leads to the kitchen sink and washing machine but the pipe is not visible.

21. The applicant admitted that it did not connect the 3 pipes to the main sewer pipe after elevating it for the reasons stated above. Based on my previous discussion, I find that the applicant did not complete the work it was contracted to do.

Is the applicant entitled to any remedies?

22. I find the applicant is not entitled to \$11,200 since it did not complete the work it agreed to do. Since the applicant's quote was for a lump sum amount and did not provide a line item breakdown, I find the value of the applicant's work should be assessed on a *quantum meruit* basis. This means that a party is entitled to receive reasonable payment for the work that it did.

23. The applicant completed almost all of the work on the respondents' house and did not reconnect 3 pipes to the main sewer pipe. The respondents paid the applicant \$9,000 and withheld \$2,200. In January 2019 the respondents sent the applicant a cheque for \$992.50 after they say they paid another plumber \$1,207.50 to connect the 3 pipes. The applicant refused to accept the payment.

24. The respondents provided a photo of the third party plumber's work. Again, the applicant did not dispute the accuracy of the photo or the labels. The photo shows that a Y connector was installed to connect the basement bathroom, kitchen sink, and washing machine to the main sewer pipe. The 3 pipes were extended to reach the main sewer line. Aside from the photo, the respondents did not provide a description of the work that the third party plumber did, or a copy of an invoice from the third party plumber.

25. Although the applicant admitted a third party installed and connected the 3 pipes, it challenged the amount paid to the third party plumber and says the respondent did not provide an invoice or description of the work that was done or proof of payment. It also says that the photo of the third party plumber's work shows the third party plumber did additional work described as "sanitary clean out with sanitary pump connection" that was not part of the agreement.

26. The applicant did not state how much the third party plumber should have charged for the additional materials and labor to reconnect the pipes to the main sewer line or the cost of unrelated work, if any, that the other plumber may have done. Based on the evidence before me and the original quote, I find that it was reasonable for the respondents to pay \$1,207.50 to connect the 3 pipes. I order the respondents to pay the applicant the balance of the \$2,200, which is \$992.50.
27. The Court *Order Interest Act* applies to the tribunal. The applicant is entitled to pre-judgment interest on the \$992.50 from the date the cause of action arose (July 13, 2018), to the date of this decision. This equals \$29.10.
28. 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 the successful party, though it failed to prove its full claim. Since the applicant refused the respondents' offer of \$992.50 in January 2019, which was 9 months before the applicant filed its claim, I find that the applicant is not entitled to reimbursement of tribunal fees or dispute-related expenses.

ORDERS

29. Within 30 days of the date of this order, I order the respondents, Xusheng Chen and Yu Xin Li to pay the applicant, Lawn Genius Manufacturing (Canada) Inc. dba Drain Master, a total of \$1,021.60 broken down as follows:
 - a. \$992.50 in debt, and
 - b. \$29.10 for court ordered pre-judgment interest.
30. I dismiss the applicant's remaining claims for tribunal fees, and dispute related expenses.
31. The applicant is entitled to post-judgment interest, as applicable.

32. 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.
33. 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.

Rama Sood, Tribunal Member