



# Civil Resolution Tribunal

Date Issued: March 27, 2020

File: SC-2019-007961

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Christianson v. Clausen*, 2020 BCCRT 348

**BETWEEN:**

GEORGE CHRISTIANSON

**APPLICANT**

**AND:**

JACKSON CLAUSEN and MEAGHAN HALENA WESTIE

**RESPONDENTS**

---

## REASONS FOR DECISION

---

Tribunal Member:

Butch Bagabuyo

## INTRODUCTION

1. This dispute is about compensation for drywall taping and finishing services.

2. The respondents, Jackson Clausen and Meaghan Halena Westie, hired the applicant, George Christianson, to do drywall taping and finishing. The applicant seeks payment from the respondents for his \$4,016.72 invoice.
3. The respondents admit the applicant and his workers completed the work. But the respondents say they already paid the applicant with a cash payment. Also, the respondents say the applicant's invoice is inaccurate and a fabrication.
4. All parties are self-represented.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, 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 find that an oral hearing is not necessary, and I can fairly hear this dispute through written submissions.
7. 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.

8. 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.

## **ISSUES**

9. The issues in this dispute are:
  - a. whether the respondents must pay the applicant's \$4,016.72 invoice, and
  - b. whether the respondents already paid in cash for the work?

## **EVIDENCE AND ANALYSIS**

10. In a civil claim like this one, the applicant bears the burden of proof and must prove his claim, on a balance of probabilities. In this dispute, the respondents bear the burden of proof that a cash payment was made.
11. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
12. The parties agree the respondents hired the applicant to do their drywall taping and finishing job, on a time and materials basis. The parties agree that work began on April 25, 2018, but they disagree on the work completion date. The applicant says his workers completed the work on May 8, 2018, but the respondents say work was done on May 1, 2018. The parties agree that the hourly rate was \$45 plus materials and taxes.
13. The applicant produced his workers' timesheets showing the dates and hours worked. The applicant claims his 2 workers worked 76 hours plus \$425.72 for

materials, for a total of \$4,016.72. The applicant says the respondents refused to pay his June 1, 2018 invoice for \$4,016.72.

14. In response, the respondents say they already paid him \$2,500 in cash for his work. They also say that the applicant's invoice was inflated and a fabrication to get paid twice. To support their argument that the invoice was inflated and a fabrication, the respondents challenge the accuracy of the applicant's invoice and time sheets.
15. The respondents say they did not receive the applicant's June 1, 2018 invoice until 13 months later, on June 29, 2019. The applicant says he was behind on his invoicing, which was the reason for his delay. The respondents say the delay was the applicant's attempt to get paid twice because they already paid him in 2018. Specifically, the respondents say the fact that the invoice was dated June 1, 2018 and was not sent to them until June 29, 2019 was proof that the invoice was a total fabrication. On the evidence, I find that the applicant prepared his invoice in June 2019, which is consistent with his text messages on May 6, and May 14, 2019. The applicant did not say that he backdated his invoice or explained his need to do so
16. The respondents say that the applicant's May 14, 2019 text message is another proof that his invoice was a fabrication and therefore his claim and his evidence are unreliable. On the evidence, I find that the applicant texted the respondents on May 14, 2019 saying he had an invoice for them for \$3,716.16. The respondents say the applicant's text message in May caught them by surprise because they already paid him \$2,500 in cash for his work back in 2018. The respondents also say the amount in his May text message was totally different than the amount on his June 1, 2019 invoice, which they say is another proof that the applicant was fabricating an invoice. The applicant did not provide any explanation on the discrepancy of the amounts between his May 14, 2019 text message and his June 1, 2018 invoice.
17. As part of the respondents' argument that the applicant's invoice was inflated and a fabrication, the respondents produced their "kitchen calendar" where they noted the times that the applicant's workers were in their house. Specifically, the respondents challenged the hours of J and M, the applicant's workers. On the evidence, the

respondents' calendar shows that J and M worked for a total of 43.5 hours or the equivalent of \$2,055.38 with taxes. The applicant did not challenge the respondents' notations on their kitchen calendar. Also, the applicant did not provide any explanation on the absence of witness statements from the workers. I find that an adverse inference is appropriate, and the reason there are no witness statements from the workers is because they are likely not supportive of the hours being claimed by the applicant.

18. On the evidence, I find that the 43.5 hours from the respondents' kitchen calendar is more likely a true reflection of the hours worked by the applicant's workers. I also find that the 43.5 hours or its equivalent \$2,055.38 with taxes is more aligned with the pre-construction quote obtained by the respondents from another drywaller. In addition, the unexplained discrepancy of the amounts between the applicant's May 2019 text message and his June 1, 2018 invoice is another reason that I find the June 1, 2018 invoice as inaccurate and unreliable. I find that the applicant has failed to justify the time on his invoice, and I find that the applicant's workers worked for a total of 43.5 hours or the equivalent of \$2,055.38 with taxes.
19. The applicant produced his supplier's invoices for supplies and materials, and I find that \$425.72 is the amount incurred for supplies and materials, which the respondents did not directly challenge.
20. The only remaining issue is whether the applicant was already paid for his services? The respondents say that they already paid the applicant \$2,500 in cash for his work. The applicant denies receiving any payment. On the evidence, I find the respondents asked the applicant for his invoice on May 12, 2018 so they could pay him, but the applicant did not provide them with an invoice until June 2019. The respondents say when they saw the applicant around June or July 2018, they paid him \$2,500 in cash. They say they paid cash because that was the agreed form of payment. The respondents say they placed the \$2,500 cash in a white envelope and gave it to the applicant in a parking lot. The applicant did not give them a

receipt. The applicant did not specifically deny meeting with the respondents in June or July 2018.

21. The respondents say when they were building their home, they had large sums of cash with them because that was how they paid their contractors. The respondents' bank records showed a cash withdrawal of \$1,300 on June 21, 2018, and then two cash withdrawals on July 3, 2018 for \$1,800 and \$23,000. I accept the respondents' evidence that they carried large sums of cash while they were building their home.
22. I note that when the applicant said he was behind on his invoicing, he did not explain or provide any evidence about his business cash flow or how he was paying his workers and suppliers given that he waited 13 months to try to collect from the respondents. While a delay of 2-3 months on invoicing might be reasonable, the applicant did not fully explain why it took him 13 months to do so. It maybe that his cash flow situation was in order and he did not need the payment right away, but the applicant did not say or substantiate that. One plausible explanation for the applicant's lack of urgency to send his invoice is that he already received some form of payment from the respondents.
23. The respondents primarily challenged the applicant's invoice to show that his evidence and claim are unreliable and a fabrication, and they say that the applicant's assertion that he was not paid cannot be relied either. The respondents did not question the quality of work of the applicant's workers. On the contrary, the respondents were happy with their work. The respondents even texted the applicant in May 2018 when work was completed that they needed to pay him. I find nothing on the evidence to suggest the respondents were unhappy with the applicant's work or that they were trying to avoid paying for the applicant's work. On the evidence I am satisfied that the respondents had the ability and opportunity to pay the applicant in cash when they said they did, and I find that they paid the applicant \$2,500 in cash for his work when they saw him in June or July 2018.
24. In summary, I find that the applicant was unable to justify the time on his June 1, 2018 invoice. I find that the hours worked was only 43.5 hours or \$2,055.38 with

taxes and the costs for supplies and materials were \$425.72. Therefore, the total amount for time, materials, and taxes is \$2,481.10. I also find that the respondents paid the applicant \$2,500 in cash for his work. As such, I find that the respondents already paid the applicant in full for his work and therefore they do not need to pay the applicant's invoice.

25. The applicant also claims 2% per month interest. I find no basis for such claim. Even if I had made an award to the applicant, I would have dismissed the contractual interest claim as unproven as the parties did not agree to interest when they formed their agreement.

## **TRIBUNAL FEES AND EXPENSES**

26. Under section 49 of the CRTA and tribunal rules, a successful party is generally entitled to the recovery of their tribunal fees and reasonable dispute-related expenses. I see no reason to deviate from that general rule. As the applicant was unsuccessful, I find that he is not entitled to reimbursement of the \$175 he paid in tribunal fees. No dispute-related expenses were claimed.

## **ORDER**

27. I order the applicant's claims, and this dispute, dismissed.

---

Butch Bagabuyo, Tribunal Member