



Civil Resolution Tribunal

Date Issued: June 4, 2020

File: SC-2020-000846

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cheap Garbage Service Ltd v. Butts*, 2020 BCCRT 619

BETWEEN:

CHEAP GARBAGE SERVICE LTD

APPLICANT

AND:

RODERICK BUTTS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. The applicant Cheap Garbage Service Ltd says it provided the respondent Roderick Butts with \$508.50 in waste removal services, but the respondent failed to pay.
2. The respondent says the applicant provided the roll off bin a day late, on October 25, 2018. The respondent also says his mother paid the applicant in cash on

October 30, 2018, when the applicant's driver returned after visiting the landfill. The respondent asks me to dismiss the dispute.

3. The applicant is represented by business contact CD. 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, 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 respondent must pay the applicant the claimed \$508.50 for garbage removal services provided.

EVIDENCE AND ANALYSIS

9. In this civil claim, the applicant bears the burden of proof on a balance of probabilities. I have reviewed the evidence and submissions but refer to them only as I find necessary to explain my decision.
10. It is uncontested that the applicant delivered a roll off bin to the respondent on October 25, 2018.
11. The parties disagree about whether the respondent's mother paid the applicant for the roll off bin delivery, bin rental, and removal fees, plus landfill fees, totaling \$508.50 on October 30, 2019.
12. The applicant says the respondent's mother did not pay. The respondent's mother provided a statement saying she paid the applicant's driver \$540 cash, being \$508.50 plus a tip, on October 30, 2018, but received no receipt.
13. I find that the respondent's mother did not pay the applicant \$508.50 plus tip on October 30, 2018. I prefer the applicant's business records, made at the time, to the respondent's evidence which is inconsistent with the documentary evidence. These records include the driver's timesheet, landfill scale tickets showing times that the driver dropped off waste that day, including subsequent landfill visits that day which accord with his timesheet, and the invoice and applicant's accounting records.
14. In reaching my finding, I have placed weight on the following factors:
 - a. The applicant's records of drive times and the location of its driver on October 30, 2018 show that the driver did not return to the respondent's home to pick up cash payment.
 - b. The applicant's driver would not have known the precise amount to be charged until after the waste was weighed. There is no record that the applicant's driver returned to the respondent's home after the \$218 landfill charge was paid.

- c. While the respondent's mother provided a statement that she paid the driver when he returned to her home, after visiting the landfill, her evidence is not consistent with the applicant's business records. The respondent's mother also did not describe the time of the second visit or the driver or provide his name or a receipt.
 - d. The applicant issued an invoice on November 19, 2018 showing the \$508.50 was due and owing.
 - e. The respondent submits that he told someone at the applicant's office that the November 19, 2018 invoice had already been paid. However, he did not email the respondent to say the invoice had been paid nor could he prove payment by providing a receipt.
15. I find that the respondent must pay the applicant the outstanding \$508.50 for services provided.
16. The *Court Order Interest Act* applies to the tribunal. The applicant is entitled to pre-judgment interest on the \$508.50 from November 19, 2018 the date of the invoice to the date of this decision. This equals \$15.02.
17. 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. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$125 in tribunal fees. The applicant did not claim dispute-related expenses.

ORDERS

18. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$648.52, broken down as follows:
- a. \$508.50 for bin rental, delivery, removal and landfill charges,
 - b. \$15.02 in pre-judgment interest under the *Court Order Interest Act*, and

c. \$125 in tribunal fees.

19. The applicant is entitled to post-judgment interest, as applicable.
20. 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. The Minister of Public Safety and Solicitor General has issued a Ministerial Order under the *Emergency Program Act*, which says that tribunals may waive, extend or suspend a mandatory time period. The tribunal can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the tribunal will not have this ability. A party should contact the tribunal as soon as possible if they want to ask the tribunal to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.
21. 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.

Julie K. Gibson, Tribunal Member