



# Civil Resolution Tribunal

Date Issued: June 4, 2020

File: SC-2020-000183

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *JBR Construction Ltd. v. Van Creative Glass Ltd.*, 2020 BCCRT 620

B E T W E E N :

JBR CONSTRUCTION LTD.

**APPLICANT**

A N D :

VAN CREATIVE GLASS LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Julie K. Gibson

## INTRODUCTION

1. The applicant JBR Construction Ltd. says the respondent Van Creative Glass Ltd. failed to pay it \$3,790.80 as refund of an overpayment on an invoice.

2. The respondent disagrees, saying the credit owing was only \$1,406.70, which it paid. The respondent says any further issue is between the applicant and its former partner, KR, who is not a party to this dispute.
3. The applicant is represented by business contact ER. The respondent is represented by business contact DV.

## **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 owes the applicant the claimed \$3,790.80.

## **EVIDENCE AND ANALYSIS**

9. Based on the invoices the applicant filed in evidence, I find the following facts:
  - a. In December 2017, the respondent sent the applicant an invoice showing a \$5,197.50 credit against a total of \$18,353.06 owing. The invoice adjusted the balance due to account for the credit, leaving a total of \$13,155.56 owing by the applicant to the respondent.
  - b. On February 16, 2018, the applicant paid the \$18,353.06 amount in error, rather than the \$13,155.56. That is, the applicant overpaid by \$5,197.50.
  - c. On March and April 2019, the applicant's employee CA emailed the respondent asking to be refunded the \$5,197.50 overpayment.
  - d. In December 2019, the respondent paid the applicant \$1,406.70. This left the claimed \$3,790.80 owing.
10. The respondent says that it applied the \$5,197.50 overpayment to the applicant's other outstanding invoices. However, the respondent only provided two invoices dated before the overpayment, which it says were paid February 21, 2018. On their face, those invoices do not show that they were paid by applying an existing credit on the applicant's account. As well, the two invoices do not add up to the overpayment credit of \$5,197.50. The respondent also did not explain whether the two invoices were paid in part by cheques, nor did it provide copies of those cheques. Having found the applicant proved the overpayment, I find the respondent did not establish that the disputed credit was applied to the applicant's account to address other invoices.

11. The respondent also submits that the dispute is really between the applicant and its former partner KR. However, the respondent did not explain how this alters its obligation to refund the applicant for the overpayment. I find it does not.
12. I find that the respondent owes the applicant the claimed \$3,790.80.
13. The *Court Order Interest Act* applies to the tribunal. The applicant is entitled to pre-judgment interest on the \$3,790.80 from February 16, 2018, the date of the overpayment, to the date of this decision. This equals \$150.05.
14. 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 \$175 in tribunal fees. The applicant did not claim dispute-related expenses.

## **ORDERS**

15. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$4,120.80, broken down as follows:
  - a. \$3,790.80 as reimbursement for an overpayment on its account,
  - b. \$150.05 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$175 in tribunal fees.
16. The applicant is entitled to post-judgment interest, as applicable.
17. 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.

18. 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.

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Julie K. Gibson, Tribunal Member