



Civil Resolution Tribunal

Date Issued: June 19, 2020

File: SC-2019-010649

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Waterworks Irrigation and Landscaping Inc. v. Ji*, 2020 BCCRT 682

B E T W E E N :

WATERWORKS IRRIGATION AND LANDSCAPING INC.

APPLICANT

A N D :

ZHENGRONG JI

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kathleen Mell

INTRODUCTION

1. This dispute is about an irrigation agreement. The applicant, Waterworks Irrigation and Landscaping Inc. (Waterworks), says that the respondent, Zhengrong Ji,

requested extra work during installation and that she refused to pay for the original work agreed to and the extra work added later. Waterworks requests \$1,433.25. Waterworks is represented by a business contact.

2. Ms. Ji says that Waterworks did not complete the work and that it is charging her extra for things included in the original quotes. Ms. Ji also says that the work and materials were defective. Ms. Ji represents herself.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT 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 CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, this dispute amounts to a "it said, she said" scenario with both sides calling into question the credibility of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. I therefore decided to hear this dispute through written submissions.
5. The CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

6. Waterworks objects to Ms. Ji submitting her evidence late. I note that Waterworks had an opportunity to review this evidence and reply to it. Therefore, I find that Waterworks is not prejudiced and I allow the late evidence.
7. The original Dispute Notice did not have Ms. Ji's correct name. The parties agreed to amend the Dispute Notice to reflect Ms. Ji's legal name.
8. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT 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 whether the added work was included in the original quotes and whether the work was defective.

EVIDENCE AND ANALYSIS

10. In a civil dispute such as this, the applicant must prove its claim on a balance of probabilities.
11. I will not refer to all of the evidence or deal with each point raised in the parties' submissions. I will refer only to the evidence and submissions that are relevant to my determination, or to the extent necessary to give context to these reasons.
12. The parties do not have a signed contract. Waterworks refers to its quotes and emails to prove the terms of the agreement. It also argues that there were verbal discussions and consent which also make up the terms of the agreement. I note that while enforceable, verbal agreements are harder to prove than written ones.
13. Waterworks says that Ms. Ji paid a 50% deposit on the original \$1,575.00 quote and agreed to pay the remainder on completion. It says she then added additional work totalling \$400.00. Waterworks says it is owed for installing drip sprinkler heads for trees, installation of sprinklers and irrigation of the front bed, a new smart wifi

timer, capping of side heads, adding drips to pots, and adding extra drip to lower trees. Waterworks says \$1,433.25 is owing for the irrigation service including the extras added to the agreement.

14. Ms. Ji says that the installed irrigation system is incomplete and does not work. She says that she told Waterworks she would not pay until it finished the project and showed her how it worked. She also says Waterworks damaged her property by causing two underground water leaks. Ms. Ji did not provide evidence of the leaks. She says she had to shut the system down. She says she is willing to pay when the project is completed.
15. I turn to the relevant chronology. In a series of emails beginning on May 10, 2019 the parties discussed the work, the cost, and the timeframe.
16. In a June 1, 2019 email Ms. Ji stated that she had 12 sprinkler heads that she wanted to change to dripping. She stated that all areas of her yard had existing sprinkler heads so there was no need for Waterworks to set up another zone. She also asked questions about what brand of controller Waterworks used.
17. On June 3, 2019, Waterworks emailed Ms. Ji that the lowest price it could offer for the new timer and the installation was \$1,500 (\$1,575.00 with tax). Waterworks also sent Ms. Ji an estimate. I note that it is dated May 31, 2019 but because it sets out the terms discussed on June 3, 2019, I find that this estimate was written on or after that date. The estimate says that Waterworks would provide irrigation services which include adding drip to the sprinkler heads, install drip to trees, add a new zone to the front bed and provide a smart wifi timer.
18. Ms. Ji replied that she accepted the \$1,500 quotation. Waterworks sent an email the same day saying that Ms. Ji had to pay a 50% deposit and that they would begin the work the following week. The emails indicate that Ms. Ji paid the 50% deposit, which was \$787.50.
19. On June 10, 2019, Waterworks sent Ms. Ji an email saying that its employee found many breaks in the existing lines and made repairs. It said it would fix these without

adding anything to the quote but also noted that if Ms. Ji wanted it to “drip” the back trees this would cost an additional \$350. Ms. Ji responded that she was willing to pay \$1,800 (including taxes) since Waterworks’ employee had dug up and fixed the pipe. However, she said she was not willing to pay anything more to drip the back trees because part of the initial quote included replacing the 12 sprinkler heads including the ones that watered the backyard trees.

20. Ms. Ji says that after she agreed to pay the additional amount bringing her total to \$1,800.00, she received the invoice for \$1,013.25 even though the work was not completed. On June 12, 2019, Waterworks sent an email apologizing and said that the invoice was sent by its computer system and that its employee was coming that night to complete the project. However, the previous night Waterworks had also sent an email saying that Ms. Ji had requested more work and that there would be an additional cost. Waterworks did not provide evidence that Ms. Ji agreed to pay more.
21. Waterworks then sent Ms. Ji another invoice saying there was an additional cost to cap the side heads, adding drip to “pots” and extra dripping to trees, as well as labour costs. It says that \$1,433.25 was now owing.
22. In the emails following this, the parties express disagreement about the scope of the work under the agreement. Waterworks says that Ms. Ji asked for additional work including capping heads on the side and lower. I infer this to mean on the side and lower property. It also says it did not agree to “adding drip to pots” and trenching in lines. Ms. Ji said that all these things were discussed before the initial quotation. She stated that trenching and burying was a basic part of installing the dripping system and should be included. Ms. Ji did not provide evidence that the original quotes included trenching in the lines or expert evidence that this is a basic part of the installation of a dripping system. She indicated that Waterworks was using defective equipment because the dripping sprinkler heads were easily blocked by dirt.

23. Waterworks responded that it told Ms. Ji that a dripping system was not a good idea and that she should use spray sprinkler heads. It noted that it explained that she needed an extra zone in the back, but she declined. It also stated that it did not include providing a drip line in the original quote but only that it would replace the sprinkler heads with drip heads.
24. On June 19, 2019, Ms. Ji sent an email to Waterworks saying that the dripping lines were not working, and she thought it might be because of low water pressure or dirt blocking the dripping pipe. She stated that some of the sprinkler heads still had water coming out and that the existing sprinkler heads were spraying water everywhere. She said that Waterworks had to come and fix it.
25. Ms. Ji provided a June 22, 2019 email from Waterworks saying that it would return to resolve any issues Ms. Ji had but that she first had to pay the outstanding balance of \$1,433.25.
26. Based on the evidence, I find that Waterworks has not proved that Ms. Ji requested additional work or that she ever agreed to pay more than the \$1,800.00. Waterworks did not provide any documentation of this. It provided an email saying that extra work was requested, and this was going to cost more. It did not specify how much more, and Waterworks did not provide any evidence that Ms. Ji consented to pay more. Ms. Ji however did provide emails stating that she would not pay more than \$1,800.00.
27. Further, Waterworks has not provided specific information to show that capping the side heads, adding drip to “pots” and extra dripping to trees was not included in the original quotes, which suggested that the sprinkler heads would be replaced and that dripping would include the entire property including the trees. The initial quotes did not suggest that the trees would not be reached and would cost more. Waterworks has not proved that it performed work that was not part of the original agreement and covered by the quotes.

28. Therefore, I find that Ms. Ji agreed to the initial quote saying she would pay \$1,575.00 (with tax) to have 12 sprinkler heads switched to drip to water the property and trees, add a new zone to the front bed, and to provide a smart wifi timer. She then agreed to pay a total of \$1,800.00 because Waterworks had dug up and fixed the pipes. I find there is insufficient evidence to show that Ms. Ji ever agreed to pay more than this or that additional work was done. I find that Waterworks has not proved that it is entitled to anything more than the \$1,800.00 Ms. Ji agreed to pay.
29. Ms. Ji has not filed a counterclaim, but she argues she should not have to pay the amount outstanding because Waterworks used defective materials and that the irrigation system is not working properly. She also says that Waterworks damaged her property.
30. Where one party asserts defective work, that party has the burden of proving the defects, see *Lund v. Appleford*, 2017 BCPC 91 at paragraph 124. Here, the respondent Ms. Ji is the party asserting defective work.
31. Ms. Ji alleges that the work is incomplete and defective but she provided little evidence to establish this. She provided pictures but they do not show the work is defective. They do show the lines are not trenched but the quotes do not indicate that Waterworks said they would trench the lines. She did not submit any statement from another irrigation company stating that the work is defective or that trenching the line is standard practice. In her Dispute Response, Ms. Ji stated that she has water bills and her neighbours to support her claim that the work is defective. However, Ms. Ji did not provide this evidence.
32. Based on the evidence, I find that Ms. Ji has not proved that Waterworks' materials or work was defective. Therefore, I find that she has to pay the amount owed under the agreement. Ms. Ji agreed to pay \$1,800.00. She paid \$787.50. This leaves \$1,012.50 outstanding. Waterworks is also entitled to interest under the *Court Order Interest Act* (COIA) from the July 3, 2019 invoice due date to the date of this decision. This equals \$19.15.

33. Under section 49 of the CRTA and CRT rules, the CRT 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. As Waterworks was substantially successful, I find that it is entitled to reimbursement of its \$125.00 tribunal fees. Neither party requested expenses.

ORDERS

34. Within 30 days of this decision, I order Ms. Ji to pay Waterworks a total of \$1,156.65, broken down as follows:

- a. \$1,012.50 in debt under the agreement,
- b. \$19.15 in interest under the COIA, and
- c. \$125.00 in tribunal fees.

35. Waterworks is entitled to post-judgement interest, as applicable.

36. I dismiss Waterworks' other claims.

37. 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.

38. 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.

Kathleen Mell, Tribunal Member