



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Can Do Safety Ltd. v. Jody Dean Mighton (dba Top Notch Wood Works)*,
2020 BCCRT 753

B E T W E E N :

CAN DO SAFETY LTD.

APPLICANT

A N D :

JODY DEAN MIGHTON (Doing Business As TOP NOTCH WOOD
WORKS)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This small claims dispute is about non-payment for services rendered. The applicant, Can Do Safety Ltd. (CDS), says it produced and delivered a safety manual for the respondent, Jody Dean Mighton (Doing Business As Top Notch

Wood Works), but the respondent refused to pay CDS's invoice. CDS seeks \$4,200.

2. Mr. Mighton says the parties never discussed the cost and that CDS did not complete the work. He says he is willing to pay after the job is complete.
3. CDS is represented by its employee, JC. Mr. Mighton is self-represented.

JURISDICTION AND PROCEDURE

4. 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.
5. The CRT 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 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.
7. 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 CRT considers appropriate.

ISSUE

8. The issue in this dispute is whether Mr. Mighton owes CDS \$4,200 for a safety program CDS provided to him.

EVIDENCE AND ANALYSIS

9. CDS says Mr. Mighton consulted with it about a safety program. Although neither party provided the date, I infer from the evidence the discussion took place in October 2018. CDS says it provided a verbal quote for the safety program to Mr. Mighton. Neither party provided the amount quoted, the work that was included, or the date of the quote.
10. CDS says Mr. Mighton did not want to proceed at that time. Even though Mr. Mighton did not provide instructions to do so, CDS says it wrote a safety program and safety manual anyway. CDS provided emails showing that it emailed an employee orientation to Mr. Mighton on February 26, 2019, and a first aid assessment to Mr. Mighton on March 1, 2019. CDS did not explain why it sent these documents to Mr. Mighton, given Mr. Mighton did not instruct it to proceed.
11. Aside from the emails, there is no evidence that the parties discussed the safety program further. CDS says in May 2019, Mr. Mighton notified CDS that WorkSafe BC (WCB) recently inspected his workplace and it might be shutdown. I infer that Mr. Mighton asked CDS at that point to proceed with the safety program. Neither party provided further details such as the date Mr. Mighton contacted CDS or the scope of the work Mr. Mighton requested.
12. CDS says it delivered a printed copy of the safety program, a safety manual, new worker orientation, and a flash drive with electronic copies of the documents to Mr. Mighton's place of business within an hour of receiving Mr. Mighton's request. CDS says it also gave Mr. Mighton copies of a company hazard assessment checklist, forklift inspection checklist, monthly inspection form, and company safety meeting form. Mr. Mighton did not deny that he received these documents. CDS says Mr.

Mighton was pleased with the documents it produced and instructed CDS to send an invoice. CDS emailed the respondent an invoice for \$4,000 plus \$200 GST on June 7, 2019 for "Safety Program Development, Safety Manual, Employee Orientation, supporting docs". This is the \$4,200 claimed in this dispute.

13. Mr. Mighton emailed CDS on August 19, 2019 that he expected the amount to be 50% less because he had to print several documents himself. Mr. Mighton did not provide details about how many documents or pages he printed or any details about his discussion with WCB about the orientation. He also stated WCB stated the orientation was not necessary and "way over board". I infer "way over board" meant that CDS did more work than was necessary.
14. CDS responded that the invoice was comparable to the estimate it gave him 8 months earlier. Since Mr. Mighton did not deny this, I infer that CDS's verbal quote was approximately \$4,000 plus GST. Mr. Mighton responded that he had financial difficulties. It did not appear there was any further discussion until CDS emailed Mr. Mighton December 1, 2019 requesting payment. Mr. Mighton did not respond.
15. CDS provided a copy of an April 7, 2019 text as proof that Mr. Mighton agreed to pay the invoice. I do not give the text any weight since it predates the invoice. Also it refers to a countertop and does not mention the invoice or the work that CDS did for Mr. Mighton.
16. Mr. Mighton says that the parties never discussed the cost of the work that CDS did in advance. Mr. Mighton says things were happening so fast that the parties did not have time to discuss CDS's fee. Since he did not deny that CDS had provided a verbal quote, I find Mr. Mighton was aware of the cost when he asked CDS to proceed with the safety program in May 2019.
17. Mr. Mighton says CDS provided him with one copy of a 65 page orientation book and a 1 inch binder with a 25 page safety meeting checklist. Mr. Mighton also says CDS was supposed to provide machinery safety procedures for all stations but did not do so. He says he is willing to pay CDS the \$4,200 invoice after the job is

completed. CDS says it provided the services requested by Mr. Mighton. It submitted a copy of a 98 page “Occupational Health & Safety Manual” that it says it provided to Mr. Mighton. The manual included sections about the general operation, hazards, and correct work method for various equipment. Mr. Mighton did not deny that he received this manual. I find Mr. Mighton has not established that CDS did not finish the project since the manual addresses the machinery safety procedures.

Was there an enforceable contract between the parties?

18. The basic principles of the formation and interpretation of contracts are laid out in *Shaw Production Way Holdings Inc. v. Sunvault Energy, Inc.*, 2018 BCSC 926 at paragraphs 138 to 152. As noted at paragraph 144, if an alleged agreement has not been reduced to writing, the court (or tribunal) must consider what the parties said and did, and assess objectively whether, in context, their words and actions establish an agreement.
19. I find the parties agreed CDS would develop a safety program for Mr. Mighton and provide supporting documents. Since Mr. Mighton did not dispute that CDS quoted \$4,000 plus GST for the safety program in October 2018, I find Mr. Mighton agreed the program development and supporting documents were for a fixed price of \$4,000 plus GST.
20. I find CDS fulfilled the agreement by providing Mr. Mighton with the safety manual, employee orientation, and supporting documents either in hardcopies or electronic copies. In light of the fact that it was for a fixed price, I find whether CDS’s program was “over board” was not relevant since Mr. Mighton would not have been charged an additional amount for performing extra work. I do not accept that CDS’s work was incomplete. Mr. Mighton did not raise this issue in his August 19, 2019 email and instead appeared to state that CDS did more work than necessary. Second, although Mr. Mighton says he had to print documents himself, there is no evidence that CDS agreed to provide hardcopies of all documents or the volume of documents that Mr. Mighton had to print.

21. I order Mr. Mighton to pay CDS's invoice in the amount of \$4,200.

INTEREST, CRT FEES, AND EXPENSES

22. Although CDS stated in a December 1, 2019 email to Mr. Mighton that it would charge 3% to 5% interest on the outstanding balance owed, it did not claim a contractual interest rate in this dispute. The *Court Order Interest Act* applies to the CRT. CDS is entitled to pre-judgment interest on the \$4,200 from June 7, 2019, the date of the invoice, to the date of this decision. This equals \$88.86.

23. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find CDS is entitled to reimbursement of \$175 in CRT fees. CDS did not claim dispute-related expenses.

ORDERS

24. Within 14 days of the date of this order, I order the respondent, Jody Dean Mighton, to pay the applicant, Can Do Safety Ltd., a total of \$4,467.17, broken down as follows:

- a. \$4,200 in debt,
- b. \$92.17 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

25. The applicant is entitled to post-judgment interest, as applicable.

26. Under section 48 of the CRTA, the CRT 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 CRT's final decision.

27. 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 CRT can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the CRT will not have this ability. A party should contact the CRT as soon as possible if they want to ask the CRT to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.
28. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT 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 CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Rama Sood, Tribunal Member