



Civil Resolution Tribunal

Date Issued: August 11, 2020

File: SC-2020-002473

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Holland Plumbing Services Inc. v. Yuan*, 2020 BCCRT 893

B E T W E E N :

HOLLAND PLUMBING SERVICES INC.

APPLICANT

A N D :

JOHN SHIMING YUAN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about payment for services. The applicant, Holland Plumbing Services Inc. (HPSI), says the respondent, John Shiming Yuan, refuses to pay for unblocking and flushing the perimeter drains on Mr. Yuan's property.

2. Mr. Yuan says he only asked HPSI to provide an inspection report about the blocked drains. He denies he approved any additional work. He also says HPSI failed to identify the source of the blockage and wants the \$480 he paid to HPSI for the inspection report refunded. Mr. Yuan did not file a counterclaim.
3. HPSI is represented by its employee, LB. Mr. Yuan 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.

ISSUES

8. The issues in this dispute are:

- a. Whether Mr. Yuan authorized HPSI to perform additional work, and
- b. Whether HPSI's work fell below professional standards.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant must prove its claim on a balance of probabilities. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain and give context to my decision.
10. Mr. Yuan says his house flooded 3 months after he purchased it in June 2019. He says a construction company, MDC, advised him that there were several blockages in the drains and the "system" should be replaced, which would cost approximately \$18,000. Mr. Yuan says he hired HPSI because he wanted a second opinion about whether to replace or repair the drain line.
11. HPSI says the following:
 - a. It instructs its technicians not to take any equipment off their vehicles or proceed further than the initial steps "without acknowledgement" from the customer.
 - b. It agreed to provide an inspection report to Mr. Yuan for \$480 plus GST.
 - c. Mr. Yuan specifically asked HPSI to bring drain clearing and flushing equipment in case blockages were found.
 - d. On October 10, 2019, 2 technicians used a camera to inspect Mr. Yuan's drain line and discovered 2 blockages.
 - e. Mr. Yuan authorized the technicians to remove the blockages, which included flushing the drains (additional work).
 - f. The technicians confirmed Mr. Yuan's instructions to do the additional work several times before they proceeded.

- g. The technicians used augers but were only able to partially unblock the drain. They also flushed the perimeter drains.
- h. HPSI invoiced Mr. Yuan \$1,968.75 for the inspection report and the additional work. Although the technicians worked a total of 11 hours between them, HPSI only charged Mr. Yuan for 9 hours of labour.
- i. Mr. Yuan made a partial payment of \$502, which was for the cost of the inspection report, and refused to pay the balance.

Did Mr. Yuan instruct HPSI to do additional work?

- 12. Mr. Yuan denies he authorized the additional work and says he only wanted a second opinion about the severity of the blockages. I find HPSI has not proved that Mr. Yuan authorized the technicians to do the additional work. My reasons are as follows.
- 13. I find the best source of evidence about the work the technicians were authorized to perform would have been a statement from the technicians themselves. I also note that HPSI did not provide any business records from the technicians that indicated Mr. Yuan had authorized the additional work. An adverse inference can be drawn against a party where without sufficient explanation, it fails to produce evidence or call a witness expected to provide supporting evidence (see *Port Coquitlam Building Supplies Ltd. v. 494743 B.C. Ltd.*, 2018 BCSC 2146 at paragraph 67). HPSI did not provide any evidence to support its position that Mr. Yuan instructed the technicians to remove the blockage and flush the drains. In the circumstances, I draw an adverse inference against HPSI.
- 14. In addition, the invoice contained a detailed chronological description of the service call but did not state that Mr. Yuan approved the additional work. I find this surprising considering that HPSI emphasized that it instructs its technicians not to remove equipment from the vehicles unless the customer authorized additional work.

15. I find HPSI is not entitled to charge for flushing the drain since Mr. Yuan did not approve the additional work and I dismiss HPSI's claim. In light of my finding, I do not need to address the amount of time HPSI's technicians spent unblocking the drain.

Did HPSI provide a "faulty" inspection report?

16. Since I have dismissed HPSI's claim, in the absence of a counterclaim there is no set-off to consider and I do not need to address whether HPSI's report was "faulty".

17. 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. The applicant was unsuccessful and so I dismiss its claim for CRT fees.

ORDER

18. I dismiss the applicant's claims and this dispute.

Rama Sood, Tribunal Member