



# Civil Resolution Tribunal

Date Issued: August 17, 2020

File: SC-2020-002856

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *International Flight Resources, LLC. v. Access Helicopters Ltd.*,  
2020 BCCRT 916

B E T W E E N :

INTERNATIONAL FLIGHT RESOURCES, LLC.

**APPLICANT**

A N D :

ACCESS HELICOPTERS LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kathleen Mell

## **INTRODUCTION**

1. This dispute is about a contract for flight support services. The applicant, International Flight Resources, LLC. (Flight Resources), says that the respondent, Access Helicopters Ltd. (Access Helicopters), hired it to provide flight planning, support ground handling service, fuel, air navigation and airport fees to assist in its helicopter flight over international borders. Flight Resources says that Access Helicopters has not paid for all of the services. Flight Resources claim \$4,217.20 it says is outstanding. Flight Resources is represented by an organizational contact.
2. Access Helicopters say it paid the estimated cost under the agreement but then Flight Resources increased the price by a substantial amount without justification. Access Helicopters say it should not have to pay the increased price. Access Helicopters is represented by an organizational contact.

## **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. I am satisfied an oral hearing is not required as I can decide the dispute fairly based on the evidence and submissions provided.
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. 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**

7. The issue in this dispute is whether Flight Resources was entitled to charge more than the estimated costs under the agreement and, if so, what is the appropriate remedy.

## **EVIDENCE AND ANALYSIS**

8. In a civil dispute such as this, as the applicant Flight Resources must prove its case on a balance of probabilities.
9. 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.
10. It is undisputed the parties entered into an agreement for flight support services for a helicopter to fly from Guatemala to the Canadian border. On October 7, 2019, Access Helicopters sent Flight Resources an email asking for a cost breakdown. Access Helicopters stated in the email that it was their understanding that the quote would include all the logistics in the flight plan including the "airport, fees, fuel, hotels, border crossing planning" and whatever it needed to put in place in advance.
11. The October 8, 2019 estimate stated that fuel, hotel, administration and supervision fees were all covered. The estimate included ground handling at the 14 airports. The flight plan was detailed and showed the helicopter making multiple stops in Mexico. The estimate was \$11,005.00 in US dollars (USD). The estimate stated that this was an estimate only and noted that if extra services were required, such as

additional flight plans or if there were weather issues, the cost would increase. The parties did not make detailed submissions about what they thought extra services meant. The helicopter was scheduled to leave on November 5, 2019.

12. On October 31, 2019, Access Helicopters emailed Flight Resources saying that it only needed support to fly into the United States and not to get to the Canadian border. Flight Resources changed the estimate to \$4,500.00 USD. Access Helicopters sent Flight Resources \$4,480.00 USD by wire transfer on November 1, 2019. It is unclear why Access Helicopter paid \$20 less than the estimate.
13. I find that these emails and the estimates make up the parties' agreement. The main estimated cost was going to be \$4,500.00 USD with some potential additional charges. However, the estimate stated that these additional charges were for things like flight plan changes and weather issues. I find that this means charges for unexpected changes or things that could not be foreseen because this was the nature of the additional services that were itemized. Also, I find that Access Helicopters had a right to expect that anything that could have been foreseen would be set out in the agreement explicitly especially since Access Helicopters made it clear in its request that the quote should contain all the logistics in the flight plan.
14. After the travel was completed Flight Resources says the support services actually cost \$7,460.00 USD so they invoiced Access Helicopters an additional \$2,980.66 USD. In a March 8, 2020 email Flight Resources told Access Helicopters that fuel was supplied at a discount, permits were supplied at the normal rates and that the Mexican airport fees were levied by the Mexican government and they were compulsory. Flight Resources stated that an operator was not allowed to use Mexican airports without paying these charges. Flight Resources also said that it did not have any control over the amount charged.
15. Flight Resources submits that because it only found out about the change the day before departure it did not have time to provide an accurate estimate. I do not accept this submission because the email shows that Flight Resources was aware

of the change on October 31, 2019, 5 days before the flight and therefore had time to provide an accurate quote.

16. Flight Resources also says that only \$1,495.00 was for their services, the rest was for fuel, Mexican airport charges, landing fees and flight permits. However, Flight Resources did not provide a detailed breakdown of costs. Flight Resources says that Access Helicopters must know that Mexico is one of the most expensive countries in which to operate and that the cost is impossible to forecast for ad hoc trips. I note that it is unclear what Flight Resources means by ad hoc trips as the flights through Mexico had been discussed in the initial email on October 7, 2019. Further, given Flight Resources says that Access Helicopters should know this about flying in Mexico, I find that Flight Resources knew this and should have taken it into account when providing its estimate.
17. Flight Resources also says that it is important to note that the amounts charged by the Mexican authorities were not only beyond its control, but it was also almost impossible to forecast as it depended on time of arrival, services consumed, time of departure, and weather conditions.
18. I again note that this is not the aspect of the trip that changed so Flight Resources had all this information, except for the weather conditions, when it provided the estimate. It was transportation to Canada that was cancelled, flying through Mexico remained the same and on the same date as discussed in October 2019. There is also no suggestion that there were any weather issues.
19. Access Helicopters submits that it hired Flight Resources based on its estimate. It notes that this is not a slight increase in price for any clear reason, but the price is dramatically increased. Access Helicopters says if Flight Resources had done its research before providing an estimate this would not have happened. Access Helicopters also says that if Flight Resources knew there was a potential for such an increase due to travelling through Mexico it should have said this so Access Helicopters was prepared for such a significant increase in cost. Access Helicopters

says if it knew the price was going to be close to \$7,500 instead of the \$4,500 quoted it would have pursued other estimates and options.

20. Based on the evidence, I find that Flight Resources is not entitled to charge Access Helicopters any amount above the \$4,480 Access Helicopters has already paid. I do not accept that the agreement included a term that Access Helicopters would be responsible for any additional fees for anything other than items not foreseeable such as those caused by flight changes or the weather. Flight Resources itself admits that the charges to fly through Mexico were foreseeable. I acknowledge that Flight Resources submits that this was just an estimate but the estimate itself set the terms and did not indicate that Access Helicopters could be charged an extra amount for these additional items.
21. I note that Access Helicopters only paid \$4,480 of the \$4,500 quoted. However, I decline to award the additional \$20 as Flight Resources has not itemized how much was expended for what purpose. Flight Resources has provided numerous receipts, many of them in pesos. It has not provided a breakdown of the costs, so I am unable to tell which items were included in the estimate and which are not. Based on the evidence, I find that Flight Resources has not proved that Access Helicopters owes it any additional money.
22. Under section 49 of the CRTA and the CRT's 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. Because Flight Resources was unsuccessful it is not entitled to have its CRT fees reimburse. Neither party made a claim for expenses.

## **ORDER**

23. I dismiss Flight Resources' claims and this dispute.

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Kathleen Mell, Tribunal Member