



# Civil Resolution Tribunal

Date Issued: August 17, 2020

File: SC-2020-001160

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mainstream Biological Consulting Inc v. Hallworth*, 2020 BCCRT 915

B E T W E E N :

MAINSTREAM BIOLOGICAL CONSULTING INC

**APPLICANT**

A N D :

JAMES DAVID HALLWORTH

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about an unpaid invoice. The applicant, Mainstream Biological Consulting Inc (MBC), says the respondent, James David Hallworth, owes \$411.47 for environmental consulting services. Mr. Hallworth disagrees and says he only asked MBC for a free estimate of what an environmental assessment would cost.

2. An employee or principal represents MBC. Mr. Hallworth represents himself.

## **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. Both parties to this dispute call into question the credibility, or truthfulness, 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. I note the decision in *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I 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. 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**

7. The issue in this dispute is whether the parties entered into an agreement for MBC to provide paid consulting services and if so, what remedy is appropriate.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the applicant MBC bears the burden of proving its claim on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
9. The background facts are largely undisputed. The Strathcona Regional District (SRD) advised Mr. Hallworth it was concerned about drainage from his property and a proposed development. The property's drainage and a ditch along a nearby road connect to a fish-bearing stream. The SRD asked Mr. Hallworth to retain a Qualified Environmental Professional to advise him on the regulatory requirements prior to further work on the property.
10. Mr. Hallworth phoned MBC on May 4, 2018. MBC's employees include Qualified Environmental Professionals. Mr. Hallworth and MBC give different accounts of the phone call.
11. Mr. Hallworth says he asked MBC to conduct an environmental assessment and MBC said they would view the property before providing a price. In contrast, MBC says it advised it could prepare a report, but would have to visit his property to do the required work. This included personally confirming the presence of a sensitive habitat and following up with the SRD to determine if any action was required under its bylaws. MBC says it provided the report on May 15, 2018.
12. It is undisputed that the parties did not discuss any price for the onsite visit or what rate MBC would charge for its work. I find the lack of any discussion about price supports Mr. Hallworth's version of events.

13. One of MBC's employees, DM, subsequently visited Mr. Hallworth's property on May 10, 2020. She emailed him a summary of her findings on May 15, 2018, discussed below.
14. Around the same time, the Department of Fisheries (DOF) visited Mr. Hallworth's property. The DOF advised that "all was good" so long as he did not change the course of the ditch. Mr. Hallworth says he then advised MBC that he did not want to proceed with the environmental assessment. He says he contacted MBC before DM sent her email.
15. MBC says Mr. Hallworth did not contact MBC at all. It also says it mailed an invoice to Mr. Hallworth on August 28, 2018, for \$411.47. I find MBC's account is accurate, as I find it likely that MBC would raise the issue of money owing if it had spoken to Mr. Hallworth. However, nothing significant turns on this.
16. It is undisputed that Mr. Hallworth has not paid the invoice at issue.

### ***The Principles of Contract Formation***

17. What, if anything, did the parties agree to? 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. The legal test is not what the individual parties believed. Instead, what matters is what a reasonable person in the parties' situation would have believed and understood.
18. As noted in *Shaw Production Way Holdings Inc.* at paragraphs 144 to 146, if the alleged agreement has not been reduced to writing, the court (or the CRT) must consider what the parties said and did, and assess objectively whether, in context, their words and actions establish an intention to be bound. In order for an agreement to be binding between the parties, they must have reached consensus on the essential terms of their contract, and the terms in question must be enforceable. The party relying on a contract must prove on a balance of probabilities the terms of the contract that he or she seeks to enforce.

19. I find that MBC has failed to show, on a balance of probabilities, that the parties had an enforceable contract. The parties provided conflicting accounts on what was said in the May 4, 2018 phone call. Mr. Hallworth says the onsite visit was merely to provide an estimate for the work of providing a full assessment. I have found the lack of any written agreement or discussion of price supports Mr. Hallworth's version of events. While MBC may have felt differently, I find a reasonable person would conclude that the parties had not reached any consensus on the essential terms of their contract.
20. I find DM's email of May 15, 2018 to Mr. Hallworth lends some support to Mr. Hallworth's position. DM noted that an SRD representative advised her that the SRD required an assessment to determine the status of the drainage on the property and to determine if any of the recent development activities would trigger the need for a permit. DM advised that Mr. Hallworth did need a permit, and that a *Riparian Areas Regulation* (RAR) assessment would be required to support a development permit application. DM wrote that MBC could complete the RAR assessment and described what this entailed. DM also wrote that MBC could provide a quote for these services if he wanted to proceed.
21. I acknowledge that DM's email could be viewed as the report that MBC said it contracted to produce. However, DM described her work only as a "preliminary site assessment". I find DM's email is largely consistent with Mr. Hallworth's submission that MBC visited his property primarily to provide a quote for a full assessment (i.e. the RAR assessment). DM also did not advise Mr. Hallworth in her email that he had to pay for work done to date. MBC only indicated that Mr. Hallworth had to pay when it sent an invoice in August 2018. I find a reasonable person would conclude that these factors, as whole, do not support the existence of a binding agreement.
22. I also considered whether MBC is entitled to compensation under the legal principle of *quantum meruit*. Under this principle, where the parties do not agree to a price, the applicant will still be entitled to a reasonable price for work done. MBC spent nearly 5 hours on the May 10, 2018 preliminary assessment, as shown in the

invoice. However, I find this amount of time could be reasonably consistent with MBC conducting a thorough investigation to determine if it could do the RAR assessment and how much it should charge. I am also not satisfied that MBC provided any value to Mr. Hallworth as he decided to rely on comments from the DOF rather than MBC.

23. For all the above reasons, I dismiss MBC's claim.

24. 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. Mr. Hallworth did not pay any CRT fees or claim any dispute-related expenses, so I order none.

## **ORDER**

25. I dismiss MBC's claims and this dispute.

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David Jiang, Tribunal Member