



Civil Resolution Tribunal

Date Issued: August 19, 2020

File: SC-2019-010625

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Allwest Garage Doors Ltd. V. Seafar Homes Ltd.*, 2020 BCCRT 924

B E T W E E N :

ALLWEST GARAGE DOORS LTD.

APPLICANT

A N D :

SEAFAR HOMES LTD., EDUARD CRISTIAN ARMEANU, HARJIND
UPPAL, and DDL HOMES LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about an unpaid invoice. The applicant, Allwest Garage Doors Ltd. (Allwest), invoiced the respondent, Seafar Homes Ltd. (Seafar), for replacing garage door panels. Allwest seeks an order for payment of \$1,470 from Seafar and the other respondents, as follows. Eduard Cristian Armeanu is the owner of the

home and garage where Allwest did the work. DDL Homes Ltd. (DDL) is a homebuilder. Harjind Uppal is the principal or employee of DDL and Seafar.

2. The respondents disagree that they should pay. Seafar, DDL and Mr. Uppal say that Allwest should have replaced the doors at no cost under its warranty. Mr. Armeanu says Allwest's invoice should be paid by the house "builder" and not himself. Mr. Armeanu was not more specific.
3. An employee or principal represents Allwest. Mr. Armeanu represents himself. Mr. Uppal represents himself, Seafar, and DDL.

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. 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.
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 issue in this dispute are as follows:
 - a. Who did Allwest have a contract with to do the garage door work?
 - b. Given the above, should any of the respondents pay Allwest \$1,470 for work done?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant Allwest bears the burden of proving its claims on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. As discussed below, I find that Allwest entered into a contract with Mr. Uppal to do the garage door work in July 2019. Mr. Uppal agreed he would pay personally or through Seafar. I find that only Mr. Uppal and Seafar are liable for Allwest's invoice. My reasons follow.
11. As background, Allwest first installed the garage doors at issue in December 2016. A December 15, 2016 quote shows Allwest did the work for DDL and Mr. Uppal. The evidence and submissions before me indicate that DDL was the homebuilder.
12. Allwest also added 4 windows to the garage doors at Mr. Uppal's request on January 15, 2017. I find from the submissions and evidence that he was acting for DDL at the time.

13. It is undisputed that in August 2017 Mr. Armeanu purchased the house with the garage. Prior to that, in mid-July 2017, Mr. Uppal contacted Allwest about noise from the garage door. Allwest sent an employee, RR, to look at the door. RR emailed Mr. Uppal and DDL on July 19, 2017. He noted that the garage doors had been improperly painted by a third-party subcontractor, causing the joint components to stick to each other. RR wrote that the manufacturer's warranty was likely voided by this. Allwest did no work on the door but warned the issue would have to be corrected as soon as possible.
14. Mr. Uppal, DDL, and Seafar say RR's work was deficient and caused the noises. I disagree as RR explained that incorrect painting was to blame. There is no indication that any respondents disagreed with RR's opinion until this dispute began. Where defective work is alleged, the burden of proof is on the party asserting the defects: see *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 91 at paragraph 124. The respondents provided no evidence that disputes RR's analysis. Mr. Uppal, DDL, and Seafar say the noises began after Allwest installed the 4 windows but there is nothing to corroborate this. Mr. Armeanu did not blame Allwest in his submissions.
15. In July 2019, Mr. Armeanu contacted Allwest about the garage doors as some panels had fallen off. Text messages show Allwest completed replacing the door panels on August 22, 2019. Allwest invoiced Seafar \$1,470 for the work.
16. The evidence is vague as to what caused the July 2019 issues. Allwest says it could not diagnose the problem because someone had already disassembled parts of the doors before it arrived. As before, I find there is no evidence that Allwest's work led to the problems complained of in July 2019. I find it significant that Mr. Armeanu, who lives at the house and presumably uses the garage, did not say Allwest's work was to blame.

Issue #1. Who did Allwest agree to do the work for?

17. Allwest did not enter into a written agreement with anyone for the August 2019 work. The text messages show that Allwest started work before fully clarifying who would pay. On August 20, 2019, as work neared completion, RR texted Mr. Armeanu that he was concerned about who would pay for Allwest's bill. Mr. Armeanu said he would relay RR's concerns to Mr. Uppal.
18. RR texted Mr. Uppal the next day about who to bill for the garage door work. Mr. Uppal replied it should be Seafar. Mr. Uppal also acknowledged that the work would cost \$1,400, which equals Allwest's invoice amount before GST.
19. Based on the above, I find that Allwest entered into a contract with Mr. Uppal to do the garage door work, and that Mr. Uppal agreed that Allwest could seek payment from himself or through one of the companies he represents. I reach this conclusion in part because the text messages and emails show that Allwest and Mr. Uppal communicated with each other directly. This suggests that Mr. Uppal was ultimately responsible for payment. Mr. Uppal later identified the company to bill as Seafar and not DDL. Given this, I find that Mr. Uppal and Seafar are liable for the debt, whereas DDL is not.
20. Mr. Uppal says he never instructed Allwest or RR to install the new garage door, but I find this contradicted by Mr. Uppal's text message for Allwest to seek payment from Seafar.
21. I find that Allwest did not enter into a contract with Mr. Armeanu because Mr. Uppal agreed that Seafar should pay. Mr. Uppal also never suggested that Mr. Armeanu should be liable for the debt owing. The text messages indicate that Allwest was also vague on whether Mr. Armeanu should be ultimately responsible for the debt.

Issue #2. Given the above, should any respondents pay Allwest \$1,470 for work done?

22. As Allwest remains unpaid, I find that Mr. Uppal and Seafar breached their agreement with Allwest. I conclude that Mr. Uppal and Seafar must pay Allwest \$1,400 (or \$1,470 with tax) as shown by the text messages and invoice. There is nothing to suggest this amount is unreasonable or that Allwest's most recent work is deficient.
23. Mr. Uppal says that the August 2019 work should have been covered under Allwest's warranty. I disagree. I have found that there is no proof that Allwest's earlier work was deficient.
24. The text messages from both Mr. Uppal and Mr. Armeanu also show that the parties agreed that Allwest would be paid for the work done in August 2019. There was no suggestion that Allwest had to do the work at no charge. For example, in November 2019 Mr. Uppal texted Mr. Armeanu that he had Allwest's payment for pickup. However, he never sent the cheque to Allwest. From late August to November 2019 Mr. Uppal replied to RR's texted requests for payment with 15 separate text messages that he would call him back. From the evidence and submissions, I find that Mr. Uppal never made this call. I find the most logical interpretation is that Mr. Uppal knew the work was not covered under Allwest's warranty and tried to avoid payment. Mr. Uppal also did not provide a copy of the warranty.
25. In summary, I find Mr. Uppal and Seafar must pay Allwest \$1,470 for the unpaid August 22, 2019 invoice. I find that they are jointly and severally liable for this amount. This means that Allwest can collect the award ordered below from either Mr. Uppal or Seafar.
26. The *Court Order Interest Act* applies to the CRT. Allwest is entitled to pre-judgment interest on the debt award of \$1,470 from August 22, 2019 to the date of this decision. This equals \$25.56.

27. 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 Allwest is entitled to reimbursement of \$175 in CRT fees. As Allwest did not claim any dispute-related expenses, I order none for any party.

ORDERS

28. Within 14 days of the date of this order, I order Mr. Uppal and Seafar to pay Allwest a total of \$1,670.56, broken down as follows:

- a. \$1,470.00 in debt,
- b. \$25.56 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175.00 in CRT fees.

29. Allwest is entitled to post-judgment interest, as applicable.

30. All claims against Mr. Armeanu and DDL are dismissed.

31. 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. 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.

32. 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.

David Jiang, Tribunal Member