



Civil Resolution Tribunal

Date Issued: August 24, 2020

File: SC-2020-001870

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Cheap Garbage Service Ltd. v. Destree*, 2020 BCCRT 939

BETWEEN:

CHEAP GARBAGE SERVICE LTD.

APPLICANT

AND:

HENERY DESTREE and DENISE MCELROY

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about a waste removal contract. The applicant, Cheap Garbage Service Ltd. (CGSL), entered into an agreement to provide waste disposal services to the respondents, Henry Destree and Denise McElroy. CGSL says it provided services to the respondents from August 2018 to October 2018. It says the respondents owe \$1,424.85 for monthly bin rental fees.

2. Ms. McElroy agrees with CGSL's claim. Mr. Destree did not file a Dispute Response and is in default, as discussed below.
3. CGSL is represented by its employee, CD. Ms. McElroy 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 the respondents must pay CGSL for unpaid invoices.

EVIDENCE AND ANALYSIS

9. In a civil dispute like this one, as the applicant, CGSL bears the burden of proof on a balance of probabilities. I have reviewed the evidence and submissions but refer to them only as I find necessary to explain my decision.
10. As noted above, CGSL says it provided garbage disposal services to the respondents from August 2018 to October 2018 but the respondents have not paid its invoices. CGSL seeks \$1,424.85.
11. Ms. McElroy admits that the respondents have not paid CGSL's invoices. She admits the respondents are both responsible for paying the invoices. However, she says she does not have the means to pay at this time. While I acknowledge Ms. McElroy's situation, her inability to pay does not negate her liability.
12. I now turn to Mr. Destree. Where a respondent is in default, liability is assumed. This means that because Mr. Destree refused to participate, it is generally reasonable to assume that CGSL's position is correct about the issue at hand.
13. Since the respondents have not disputed the claim, I find Ms. McElroy and Mr. Destree must pay CGSL \$1,424.85 for the unpaid invoice. I find they are joint and severally liable for this amount. This means that CGSL can collect the award ordered below from either Ms. McElroy or Mr. Destree.

INTEREST, CRT FEES, AND DISPUTE RELATED EXPENSES

14. The *Court Order Interest Act* applies to the CRT. I find CGSL is entitled to pre-judgement interest on the \$1,424.85 debt from November 19, 2018, the date of the invoice to the date of this decision. This equals \$45.04.
15. 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 CGSL is entitled to reimbursement of \$125 in CRT fees. It did not claim dispute-related expenses.

ORDERS

16. Within 14 days of the date of this order, I order Denise McElroy and Henry Destree to pay Cheap Garbage Service Ltd. a total of \$1,594.89, broken down as follows:
 - a. \$1,424.85 in debt,
 - b. \$45.04 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
17. The applicant is entitled to post-judgment interest, as applicable.
18. 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.
19. The Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is expected to be in effect until 90 days after the state of emergency declared on March 18, 2020 ends, but the Province may shorten or extend the 90-day timeline at any time. 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.
20. 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.

21. Since Mr. Destree is in default, he has no right to make a Notice of Objection, as set out in section 56.1(2.1) of the CRTA.

Rama Sood, Tribunal Member