



Civil Resolution Tribunal

Date Issued: September 14, 2020

File: SC-2020-002907

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Robillard v. Glen*, 2020 BCCRT 1032

BETWEEN:

CLAYTON ROBILLARD

APPLICANT

AND:

GORDON ARNOLD GLEN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about payment for services. Joan Marie Glen, died in January 2018. The applicant, Clayton Robillard, is Ms. Glen's grandson. The respondent, Gordon Arnold Glen, is the executor of Ms. Glen's estate and Ms. Glen's second husband. Mr. Robillard says after Ms. Glen died Mr. Glen agreed to pay him to clean her

trailer and Mr. Glen's house. He says even though he did the work, Mr. Glen refused to pay him. He seeks \$4,250 for unpaid services.

2. Mr. Glen denies that Mr. Robillard cleaned the properties or that he agreed to pay for any services.
3. The parties are each 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. In some respects, this dispute amounts to a "he said, she said" scenario with both sides calling into question the credibility of the other. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In the circumstances of this dispute, I find that I am properly able to assess and weigh the documentary evidence and submissions before me.
6. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue. I decided to hear this dispute through written submissions.

7. 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.
8. 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.
9. As a preliminary matter, I considered whether Mr. Glen acted in his own capacity or as the executor of Ms. Glen's estate when he allegedly offered to pay Mr. Robillard to assist with cleaning. This could affect who should be named as a respondent in this dispute. Under the terms of Ms. Glen's will, in addition to being named as the executor, Mr. Glen was also the trustee and sole beneficiary. This means Ms. Glen's entire estate passed to Mr. Glen upon her death, which would include her trailer. The will did not direct Mr. Glen to liquidate the assets in Ms. Glen's estate. Since there were no other beneficiaries named in the will, I infer Mr. Glen intended to use the trailer for his own personal benefit and not for the purposes of satisfying the terms of Ms. Glen's will. Also, Mr. Robillard's claim includes compensation for time spent cleaning Mr. Glen's house in addition to the trailer. For these reasons, I find Mr. Glen was acting in his own capacity when he sought help with cleaning the trailer and so there is no need to add Mr. Glen in his capacity as the executor as a named party to this dispute.

Concurrent Dispute

10. I have decided a concurrent dispute, CRT file number ST-2020-002710, in which Mr. Robillard's mother, Joan Good, is the applicant and Mr. Glen is the respondent. Many of the facts and issues are the same or similar across both disputes. This resulted in similar written reasons. However, I decided each dispute on its own merits and issued separate decisions because the parties are not the same in each.

ISSUES

11. The issues in this dispute are:

- a. whether Mr. Robillard provided cleaning services to Mr. Glen, and
- b. whether Mr. Glen agreed to pay Mr. Robillard for those services, and if so the rate of pay.

EVIDENCE AND ANALYSIS

12. In a civil claim such as this, the applicant, Mr. Robillard, bears the burden of proof, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision. For the reasons stated below, I find Mr. Robillard was adequately compensated for the work he did and so I dismiss his claims.

13. Mr. Robillard says when Ms. Glen died, Mr. Glen owned a house but was living in a trailer owned by Ms. Glen. He says both the trailer and house (properties) were filled with garbage and debris. Mr. Robillard says he, his wife (AR), and Ms. Good agreed to clean both properties so Mr. Glen could move into the house. Mr. Robillard says Mr. Glen offered to rent the trailer to Mr. Robillard for \$250 per month, which was the cost of the utilities, if he and AR cleaned it. I infer this was lower than the amount the trailer would typically rent for. Mr. Robillard says Mr. Glen told him on several occasions that they would be compensated “fairly” for all of their work after Mr. Glen sold the trailer. He says on May 12, May 14, and June 26, 2019 Mr. Glen stated they would be paid for all of their help once the trailer was sold. He also says Mr. Glen stated he was going to divide the proceeds of sale amongst Ms. Glen’s children.

14. Mr. Robillard says he spent 10 hours per day cleaning the properties on 3 separate occasions:

- a. May 1 to May 11, 2018, after which Mr. Glen moved into the house and Mr. Robillard and AR moved into the trailer. Ms. Good and AR also helped clean.
 - b. May 15 to May 19, 2019. Again Ms. Good and AR helped.
 - c. July 19 to July 21, 2019. AR helped and Mr. Robillard says his uncle, CG, hired 3 of Mr. Robillard's friends to help.
15. Mr. Robillard provided statements from the 3 friends, KB, PJ, and KG who cleaned in July 2019. All 3 witnesses stated that CG hired them. They stated that CG told them they would be paid at the end of each day and that Mr. Robillard would be paid when the house was sold. However, none of the witnesses mentioned the amount they were paid or whether CG stated how much Mr. Robillard would be paid. They confirmed that Mr. Robillard worked with them 10 hours per day from July 19 to July 21, 2019 and that CG brought them pizza.
16. Mr. Robillard also provided several statements from family members that confirmed Mr. Glen stated he would compensate Mr. Robillard for cleaning the properties. I have summarized the relevant portions of the witness statements below:
 - a. According to Ms. Good, on April 29, 2019 Mr. Glen stated that Mr. Robillard would be reimbursed for expenses if Mr. Robillard had receipts and that family members who helped would be compensated.
 - b. According to AS, Mr. Robillard's stepfather, Mr. Glen stated that the family should keep records of expenses for the funeral and other functions and the estate would reimburse them. AS also stated that Mr. Glen reimbursed him for his and Mr. Robillard's expenses and AS e-transferred money to Mr. Robillard. AS did not state how much he gave to Mr. Robillard.
 - c. According to AR, Mr. Glen stated several times, including on May 12, 2019 and June 19, 2019 that they would be paid for all of their time when the house was sold. She also stated CG paid Mr. Robillard \$200.

17. Mr. Robillard says once the work was done, Mr. Glen denied that he had offered to pay him anything.
18. Mr. Robillard says Mr. Glen gave several of Ms. Glen's belongings to family members and then later asked for their return. He says on March 11, 2019 Mr. Glen gave him a vehicle that was stored in a shed but then on August 30, 2019 Mr. Glen asked for it to be returned. Mr. Robillard says Mr. Glen wanted to sell the vehicle to pay for a new roof for Mr. Glen's house. I infer Mr. Robillard put this forward as proof that Mr. Glen habitually did not carry through with promises or agreements. I find the manner in which Mr. Glen dealt with Ms. Glen's belongings is not relevant to determining whether Mr. Glen agreed to pay Mr. Robillard for the work he performed.
19. Mr. Glen provided a very brief Dispute Response and arguments. Mr. Glen denies he offered to pay for cleaning services. He says he gave family members the opportunity to sort through Ms. Glen's belongings and take any items they wanted. Mr. Glen did not directly address whether Mr. Robillard cleaned the properties or whether he rented the trailer to Mr. Robillard. Instead he relied on a statement he submitted from CG, Mr. Robillard's uncle and Ms. Glen's son from her first marriage. I have summarized the relevant portions of CG's statement as follows:
 - a. Mr. Glen was temporarily hospitalized in July 2019 and asked CG to assist with cleaning the trailer.
 - b. While Mr. Glen was hospitalized, Mr. Robillard, AR, and Ms. Good took Mr. Glen's cash and sold Ms. Glen's belongings. CG did not state which items were sold or how much cash was taken.
 - c. CG spent \$5,500 of his own money to hire Mr. Robillard's friends from July 19 to July 21, 2019 to complete the landscaping and remove garbage from the trailer. Mr. Robillard worked as well and he paid Mr. Robillard \$450. CG did not state whether Mr. Glen reimbursed him for the expense.
 - d. CG returned to Alberta once the trailer was cleaned up.

- e. Mr. Robillard stopped paying rent and Mr. Glen's neighbor told Mr. Glen that Mr. Robillard had abandoned the house. CG did not explain the source of this information.
20. Mr. Robillard says CG's statement is inaccurate and untruthful. He says CG's statement is hearsay and CG was not present when many of the events in his statement occurred. 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, including hearsay evidence. CG's statement lacks pertinent details and consists primarily of hearsay evidence, unsubstantiated allegations, and his personal opinion. So, I find his statement is unreliable and I give it little weight.
21. Based on the evidence before me, I find that Mr. Glen asked Mr. Robillard, AR, and Ms. Good to clean the properties and offered to compensate them for the work they did. I also accept that Mr. Robillard worked approximately 10 hours per day for 19 days cleaning the properties.

Was there an enforceable contract between the parties?

22. Verbal contracts can be binding, but they must be proven. As the applicant bears the burden of proof, Mr. Robillard must establish the existence of the agreement and its terms.
23. Although I am not bound by it, I note that a prior non-binding CRT decision, *681288 BC LTD v. Hankin*, 2017 BCCRT 140, sets out a useful summary of the basic elements of a contract, at paragraph 19:

“For a contract to exist, there must be an offer by one party that is accepted by the other. There must be contractual intention, which means the parties must agree on all essential terms and those terms must be clear enough to give a reasonable degree of certainty. There must also be valuable consideration, which refers to payment of money or something else of value (for a discussion of the basic elements of a contract, see *Babich v. Babich*,

2015 BCPC 0175, and *0930032 B.C. Ltd. v. 3 Oaks Dairy Farms Ltd.*, 2015 BCCA 332). One party's belief that there is a contract is not in itself sufficient. There must be what is known in law as a 'meeting of the minds' about the contract's subject matter.

24. In applying these principles to this case, I find that the evidence before me does not establish contractual intention or a 'meeting of the minds' between Mr. Robillard and Mr. Glen. I find that although Mr. Glen offered to compensate Mr. Robillard for the work he did, there was no certainty in terms, specifically about how much Mr. Glen would pay Mr. Robillard.
25. Mr. Robillard admits that the parties never discussed the rate of pay, although he suggests it should be \$25 per hour since that is the amount that he says his friends were paid. As mentioned above, his 3 friends did not state how much they were paid or whether CG told them how much he was going to pay Mr. Robillard and so I find their statements were not helpful on this issue. Likewise, as discussed above, although Mr. Robillard provided several statements from family members, none of the witnesses stated whether Mr. Glen discussed how much he would pay Mr. Robillard.
26. Since Mr. Robillard failed to prove the parties agreed to the amount he would be paid, I find there was no binding contract between the parties.

Unjust enrichment

27. Although it was not specifically argued, I also considered whether Mr. Glen was unjustly enriched by Mr. Robillard's services. The legal test for unjust enrichment is that the applicant must show: a) that the respondent was enriched, b) that the applicant suffered a corresponding deprivation or loss, and c) there is no valid basis for the enrichment (see *Kosaka v. Chan*, 2009 BCCA 467).
28. I find Mr. Glen was not unjustly enriched. I say this because although Mr. Glen benefited from Mr. Robillard's services, Mr. Robillard also benefitted by renting the

trailer at a reduced rate. Hence, I find Mr. Robillard was compensated for the work he did and did not suffer a deprivation or loss.

29. Based on my reasons above, I dismiss Mr. Robillard's claims.

30. 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. Since Mr. Robillard was unsuccessful, I dismiss his claim for CRT fees.

ORDER

31. I dismiss Mr. Robillard's claims and this dispute.

Rama Sood, Tribunal Member