



Civil Resolution Tribunal

Date Issued: September 16, 2020

File: SC-2020-001893

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Acme Glass Ltd v. Aulakh*, 2020 BCCRT 1039

BETWEEN:

ACME GLASS LTD

APPLICANT

AND:

INDERJIT SINGH AULAKH and HARSIMRAN KAUR PARIHAR

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about unpaid services. The applicant, Acme Glass Ltd (Acme), says the respondents, Inderjit Singh Aulakh and Harsimran Kaur Parihar, have refused to pay for fixtures it supplied and installed in their house. Although Acme initially claimed \$3,930 for unpaid services, it says Mr. Aulakh made a partial payment and now \$2,930 remains unpaid.

2. Mr. Aulakh refuses to pay the balance. He says Acme did not complete the work as promised but is prepared to pay the balance once the work is done. Ms. Parihar did not file a response, which is discussed in further detail below.
3. Acme is represented by an employee, MS. Mr. Aulakh 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 Mr. Aulakh or Ms. Parihar owe any money to Acme for unpaid materials and services, and if so, what amount.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Acme, as the applicant, must prove its case on a balance of probabilities. I have reviewed all the evidence and arguments but only refer to them to the extent necessary to explain and give context to my decision.
10. As noted above, Ms. Parihar did not file a Dispute Response after being served with a Dispute Notice, as required by the CRT rules. However, Mr. Aulakh filed a Dispute Response in which he provided his version of events and addressed Acme's claims against himself and Ms. Parihar. I find Mr. Aulakh intended to represent both himself and Ms. Parihar with the Dispute Response he filed. So I find Ms. Parihar is not in default for failing to file a separate formal Dispute Response.
11. It is undisputed that in July 2018 Acme agreed to supply and install shower doors, mirrors, and closet organizers (fixtures) in Mr. Aulakh and Ms. Parihar's house for \$6,600 plus GST which totaled \$6,930. Mr. Aulakh and Ms. Parihar paid Acme \$3,000 by cheque in September 2018. Acme says after installing the fixtures it requested payment from Mr. Aulakh and Ms. Parihar for the \$3,930 balance owing. Acme says although Mr. Aulakh and Ms. Parihar repeatedly promised to pay the balance, they did not do so.
12. Mr. Aulakh did not dispute that he agreed to pay \$6,930 and acknowledged that Acme supplied and installed the fixtures. However, he says Acme did not complete the work and it was not done as promised. Mr. Aulakh did not explain how Acme's work was deficient. As noted above, Mr. Aulakh says that he made repeated attempts to contact Acme but it did not respond. He says he is prepared to pay the balance once the work is complete.
13. After this dispute was started in February 2020, Acme says Mr. Aulakh and Ms. Parihar agreed to pay the balance owed if it replaced the gables in the closets. Acme says although it did so in June 2020, Mr. Aulakh and Ms. Parihar only paid an additional \$1,000. Acme says Mr. Aulakh repeatedly stated that he would pay the balance but never did so.

14. Mr. Aulakh submitted no evidence and provided no other arguments aside from the Dispute Response, despite having the opportunity to do so. The CRT extended the deadline for submissions and made several attempts to contact Mr. Aulakh by email and telephone about providing submissions, without success. I find Mr. Aulakh had sufficient opportunity to provide evidence and to respond to Acme's submissions, but he chose not to. Parties are under no obligation to provide evidence and submissions during the CRT decision process but failing to do so can lead the CRT to make an adverse inference.
15. As mentioned above, Mr. Aulakh alleged in his Dispute Response that Acme did not complete the work it was hired to do, and also that Acme's work was defective. When 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). However, Mr. Aulakh did not provide any evidence to show poor work was done by Acme.
16. I find that it is appropriate to make an adverse inference against Mr. Aulakh and Ms. Parihar. I make this finding primarily because Mr. Aulakh's Dispute Response lacked any detail about incomplete work. In addition, Mr. Aulakh made allegations in his Dispute Response that only he could prove, such as his allegation that the work was deficient and incomplete.
17. I find that although Acme replaced the gables in June 2020, it does not mean Acme's work was defective or incomplete. I find Mr. Aulakh and Ms. Parihar did not provide an adequate reason for not paying the balance owed. So I find Mr. Aulakh and Ms. Parihar are joint and severally liable to pay Acme \$2,930, which means Acme can collect the \$2,930 from either Mr. Aulakh or Ms. Parihar.

INTEREST AND CRT FEES

18. The *Court Order Interest Act* applies to the CRT. Although Acme is entitled to pre-judgement interest on \$2,930, it did not state when it requested payment from Mr. Aulakh and Ms. Parihar. However, it stated in the Dispute Notice that it became

aware of the claim in “October 2018”. Since Acme did not specify when in October, I find it is entitled to pre-judgement interest from October 31, 2018 to the date of this decision. This equals \$95.65.

19. 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 Acme is entitled to reimbursement of \$125 in CRT fees. Acme did not claim dispute-related expenses.

ORDERS

20. Within 14 days of the date of this order, I order Mr. Aulakh and Ms. Parihar to pay Acme Glass Ltd a total of \$3,150.65, broken down as follows:

- a. \$2,930 in debt,
- b. \$95.65 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in CRT fees.

21. The applicant is entitled to post-judgment interest, as applicable.

22. 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 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.

23. 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.

Rama Sood, Tribunal Member