



Civil Resolution Tribunal

Date Issued: September 21, 2020

File: SC-2020-000716

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Niro v. Dhanda*, 2020 BCCRT 1066

BETWEEN:

MAURIZIO NIRO

APPLICANT

AND:

RANJIT DHANDA also known as RON DHANDA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This dispute is about unpaid services. The applicant, Maurizio Niro, says he installed railings and glass panels on an outdoor patio owned by the respondent, Ranjit Dhanda also known as Ron Dhanda. Mr. Niro says Mr. Dhanda did not pay the full amount for the project and seeks \$1,400 for the balancing owing.

2. Mr. Dhanda says Mr. Niro left uneven gaps between some of the glass panels and also damaged some tiles when he installed the railings.
3. The parties are 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. 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. Most of the argument in this dispute amounts to a "he said, he said" scenario, with each party calling into question the credibility of the other. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required in all cases where credibility is in issue. I have considered the CRT's mandate of proportionality and a speedy resolution of disputes. I am satisfied that I can assess and weigh the evidence and submissions before me without holding an oral hearing.
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. Dhanda owes Mr. Niro for unpaid services and if so, what amount.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, Mr. Niro, as the applicant, must prove his 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. It is undisputed that Mr. Niro installed railings and glass panels on Mr. Dhanda's outdoor patio. The parties did not state the project's full cost but Mr. Niro says Mr. Dhanda arbitrarily reduced the final payment by \$1,400. Mr. Niro says he made numerous attempts to contact Mr. Dhanda but Mr. Dhanda informed him that he was either sick or out of town.
11. Mr. Dhanda did not deny that he withheld \$1,400 from the final payment. However, he says there were uneven gaps between the glass panels Mr. Niro installed. He also says Mr. Niro damaged several tiles on the outdoor steps while installing the glass railings. Mr. Niro denies there were any deficiencies in his work. He says the parties conducted a walk through after the project was completed and Mr. Dhanda never raised any issues about the quality of the work that was done.
12. When one party asserts defective work, that party has the burden of proving the defects (see *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 91 at paragraph 124). The standards of an industry are often outside of the knowledge or expertise of an ordinary person and so expert evidence of the standard of care, its content, and breach, will likely be necessary (*Bergen v. Guliker*, 2015 BCCA 283 at paragraph 119). I find this means expert evidence is needed to determine whether the glass panels and the railings were installed to a standard expected of a reasonably competent worker. I find Mr. Dhanda did not meet this burden. My reasons are as follows.

13. Mr. Dhanda provided several photographs that showed a visible gap between 2 glass panels in 2 separate locations on his patio. Mr. Dhanda did not provide any measurements to prove the width of the gaps were inconsistent. Mr. Dhanda also provided photographs of 4 different tiles on the patio steps. Two of the tiles had a thin crack. The other 2 tiles each had a thick crack across the corner. Mr. Niro denies damaging the tiles.
14. I find that based on these photographs I cannot determine whether the gaps were inconsistent, or that Mr. Niro's work was the cause of the cracked tiles. Mr. Dhanda did not provide evidence from another installer or industry professional to comment on the quality of Mr. Niro's work and whether it met a reasonable standard or the cost to remedy it.
15. I find that if Mr. Dhanda was dissatisfied with Mr. Niro's work, he would have likely attempted to contact Mr. Niro to remedy the alleged deficiencies. Mr. Dhanda did not state that he made any attempts to contact Mr. Niro and so I find it is more likely than not that Mr. Dhanda was satisfied with the quality of Mr. Niro's work. Even if I had determined that the work was deficient, Mr. Dhanda did not prove that the cost of repairing it would be \$1,400.
16. Based on my reasons above, I find Mr. Dhanda has not proven the alleged deficiencies and so I find Mr. Dhanda must pay Mr. Niro the outstanding \$1,400.

INTEREST AND CRT FEES

17. The *Court Order Interest Act* applies to the CRT. Although Mr. Niro is entitled to pre-judgement interest on \$1,400, he did not state when he requested payment from Mr. Dhanda. However, he stated in the Dispute Notice that he became aware of the claim in "Dec 2019". Since Mr. Niro did not specify when in December, I find he is entitled to pre-judgement interest from December 31, 2019 to the date of this decision. This equals \$15.05.

18. 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 Mr. Niro is entitled to reimbursement of \$175 in CRT fees. Mr. Niro did not claim dispute-related expenses. As Mr. Dhanda was unsuccessful, I dismiss his claim for reimbursement of the \$50 he paid to set aside an earlier default decision that had been granted against him.

ORDERS

19. Within 14 days of the date of this order, I order Mr. Dhanda to pay Mr. Niro a total of \$1,590.05, broken down as follows:

- a. \$1,400 in debt,
- b. \$15.05 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

20. Mr. Niro is entitled to post-judgment interest, as applicable.

21. I dismiss Mr. Dhanda's claim for reimbursement of CRT fees.

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