



Civil Resolution Tribunal

Date Issued: September 29, 2020

File: SC-2020-003526

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Centra Lawyers LLP v. Rule*, 2020 BCCRT 1094

B E T W E E N :

CENTRA LAWYERS LLP

APPLICANT

A N D :

STEVEN FREDRICK RULE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Rama Sood

INTRODUCTION

1. This is a dispute about payment for legal services. The applicant law firm, Centra Lawyers LLP (Centra), says it provided legal services to the respondent, Steven Fredrick Rule, for a land dispute but Mr. Rule did not pay its invoices. Centra says Mr. Rule owes \$5,627.11 for unpaid legal fees and disbursements plus 36%

contractual interest. However, Centra has abandoned its claim for the amount in excess of \$5,000, the Civil Resolution Tribunal's (CRT) small claims monetary limit.

2. Mr. Rule says he received poor service and legal advice from Centra. He says he eventually resolved the matter without Centra's assistance.
3. Centra is represented by its articling student, Leah Stephanie Vidovich. Mr. Rule is self-represented.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the 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.

ISSUES

8. The issue in this dispute is whether Mr. Rule owes Centra \$5,000 plus 36% annual interest for unpaid legal services and disbursements.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant, Centra bears the burden of proving its claim, on a balance of probabilities. I have read all the parties' evidence and submissions, but I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. The parties agree that Eric Mollema, one of Centra's lawyers, was representing Mr. Rule on an unrelated matter when Mr. Rule asked him for advice about a land dispute with a neighbor. The neighbor claimed Mr. Rule's driveway was encroaching on the neighbor's land and the neighbor's lawyer demanded \$30,000. It is unclear what the amount was for.
11. Centra agreed to represent Mr. Rule and the parties signed a retainer agreement on May 8, 2019. According to the terms, Centra's rate was \$350 per hour and Mr. Rule agreed to provide a \$1,120 retainer. The parties agree Mr. Rule provided Centra with the \$1,120 retainer, although they did not indicate the date. The retainer agreement also stated that Centra's terms and conditions were available on Centra's website and provided the website address. However, neither party provided a copy of these terms and conditions.
12. I find that Mr. Rule signed the retainer agreement, understanding that he would be charged \$350 per hour plus disbursements and taxes. There is no claim that there was fraud, duress, mistake or illegality involved in Mr. Rule's decision to sign the retainer agreement. So, I find that it is binding on both parties.
13. Centra says it sent Mr. Rule the following invoices totaling \$5,627.11:
 - a. #10332 dated May 30, 2019 for \$2,379.11,

- b. #10780 dated July 2, 2019 for \$308.00,
 - c. #10884 dated July 22, 2019 for \$705.60, and
 - d. #13188 dated February 28, 2020 for \$2,234.40.
14. The invoices were for services provided from May 13 to September 11, 2019. Each invoice contained a list of dates and a description of the services provided on each date. However, the invoices did not indicate the amount of time spent on each task or the hourly rate charged. I note that the July 22, 2019 invoice contained a “Courtesy Discount” but Centra did not explain how it was calculated.
15. Mr. Rule says that Mr. Mollema advised him the legal matter could be addressed by a simple letter and that would cost about \$350. However, I note that Mr. Rule stated in a May 21, 2019 email to Centra that he thought the cost would be \$700. Since the email was prepared closer to the time Mr. Rule retained Centra, I find Mr. Rule thought the cost would be approximately \$700. I also find Centra was not limited by this estimate since in a May 16, 2020 email Mr. Mollema notified Mr. Rule that the cost would be greater than the original estimate because he needed to “do some research and searches” to reply to a letter from the neighbor’s lawyer. Although neither party provided Mr. Rule’s reply to this email, I infer that Mr. Rule agreed to proceed since he continued to respond to emails, send information, and discuss the merits of the land dispute with Mr. Mollema.
16. Centra says that at all times its lawyers acted under Mr. Rule’s instructions before taking any necessary steps. Centra submitted copies of emails from Mr. Mollema sent in May and July 2019 asking Mr. Rule for instructions to proceed. Although Mr. Rule’s responses to the emails were ambiguous, I find based on his continued communication with Mr. Mollema that he intended for Centra to continue representing him.
17. Centra’s invoices the parties continued to exchange emails or correspondence until September 11, 2019, although the parties only provided emails and correspondence until August 14, 2019. Mr. Rule says he told Mr. Mollema to stop responding to the

neighbor's lawyer's emails because it was a waste of money. I give this allegation little weight since Mr. Rule did not state when he gave these instructions to Mr. Mollema.

18. The next issue to consider is whether the legal services provided by Centra were done to a satisfactory standard. I find it is an implied term of the parties' retainer agreement that Centra's services must be of reasonable quality (see *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 91 at paragraph 124). Since Mr. Rule alleged Centra's work was of poor quality, I find he bears the burden of proving so.
19. Mr. Rule says he did not receive "any value or sound advice" from Mr. Mollema. He also says Mr. Mollema failed to conduct any research into how to address the encroachment and did not attempt to contact any of the relevant government agencies. Mr. Rule says Mr. Mollema only exchanged emails with the neighbor's lawyer and then encouraged Mr. Rule to pay the neighbor \$35,000 to resolve the matter. Mr. Rule says he ultimately contacted several government authorities himself to resolve the encroachment issue, including the RCMP, surveyors, the Surveyor General, the Department of Highways, a realtor, and an ombudsperson. Mr. Rule did not submit any evidence about the quality of Centra's work. Instead, Mr. Rule relied on his own experience and the efforts he made to address the encroachment issue, which he says he resolved.
20. Centra says it provided Mr. Rule with options on how to proceed with the land dispute with the neighbor and that it acted under Mr. Rule's instructions. It says Mr. Mollema recommended the best option was to settle instead of incurring further legal costs and proceeding to litigation. I find based on the emails that Mr. Rule retained Centra to respond to the neighbor's lawyer, not to find another solution to the encroachment issue itself. Since Mr. Rule acknowledged that Mr. Mollema provided this service, I find Mr. Rule did not prove the work done by Centra was deficient.

21. Mr. Rule says that Centra did not do any work to support the amounts invoiced. Most of the items listed in the invoices were for emails exchanged between Mr. Mollema and either Mr. Rule or the neighbor's lawyer. Mr. Rule acknowledged in a May 21, 2019 email that he sent several emails to Mr. Mollema containing information that he thought was relevant. Taking into consideration the emails the parties submitted as evidence, I find more likely than not that Centra provided the services listed in the invoices.

Remedies

22. Although the retainer agreement stated that Centra was charging Mr. Rule on an hourly basis, its invoices did not state the amount of time spent on each task. Centra's invoices listed a total of 70 tasks which consisted of 53 emails, 11 references to research or preparing correspondence, and 6 phone calls.

23. The registrar in *Porter Ramsay LLP v. Bell*, 2013 BCSC 466 (*Bell*) stated that it is the practice of lawyers to record in increments of 6 minutes, which is counted as 1 unit. The registrar also stated that it is rare to see a recording in smaller units than that on a lawyer's invoice (see paragraph 63).

24. I find it is reasonable to assess the amount of time spent on each task using units. Centra submitted copies of approximately 25 emails from May 13 to September 11, 2019. They were brief, often less than 4 lines. I find on average each email would have taken less than 5 minutes to either read or compose and that 1 unit per email is reasonable. This comes to 5.3 hours for the 53 emails.

25. Mr. Rule provided a copy of a 2 page letter from the neighbor's lawyer dated May 13, 2019, which I find would have taken 10 minutes to review. Aside from this, Centra did not provide copies of any of the correspondence, its research, or details about the length of the phone calls. I assess 2 units to the May 13, 2019 letter, 1 unit for each subsequent letter, and 1 unit for each phone call for a total of 18 units or 1.8 hours.

26. Based on the retainer agreement, I find Centra is entitled to charge \$2,485 for legal fees (7.1 hours x \$350 per hour). To this I add \$298.20 for GST and PST. Centra's invoices show it charged Mr. Rule \$132.49 plus \$9.27 PST for disbursements, which I find are reasonable. In total, I find Centra is entitled to \$2,885.76 for legal fees, disbursements and taxes. I find that Mr. Rule must pay Centra \$2,924.96 for Centra's unpaid invoices dated May 30, 2019 to February 28, 2020.
27. Centra argues that Mr. Rule could have disputed any charges on its invoices under section 70 of the *Legal Professions Act* (LPA) but did not do so. Under this section, a client can seek to have their lawyer's invoice reviewed by a court registrar either within 12 months of receiving the invoice or within 3 months of paying it. Centra says the time limit has now expired. The LPA does not restrict a client's right to bring a claim in negligence or breach of contract in the provision of legal services (see *McKenzie & Company v. Leung*, 2004 BCPC 98).

INTEREST, CRT FEES, AND DISPUTE RELATED EXPENSES

28. In its submissions, Centra claims contractual interest on the outstanding amount at the rate of 36% per year. I dismiss Centra's interest claim. Contractual interest must be agreed to by the parties. Neither the retainer agreement or the invoices stated an interest rate and Centra did not produce any other evidence that Mr. Rule agreed to pay contractual interest.
29. The *Court Order Interest Act* applies to the CRT. Centra is entitled to pre-judgment interest on \$2,924.96 from February 28, 2020, the date of its last invoice, to the date of this decision. This equals \$22.60.
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 Centra was partially successful, I find it is entitled to reimbursement of 50% of the CRT fees, which is \$100. Centra did not seek dispute-related expenses.

ORDERS

31. Within 14 days of the date of this order, I order Steven Fredrick Rule to pay Centra Lawyers LLP a total of \$3,047.56, broken down as follows:
 - a. \$2,924.96 in debt,
 - b. \$22.60 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$100 in CRT fees.
32. Centra is entitled to post-judgment interest, as applicable.
33. 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.
34. 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