



# Civil Resolution Tribunal

Date Issued: November 23, 2020

File: SC-2020-004215

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. v. Melnyk, 2020 BCCRT 1321*

B E T W E E N :

ASLAN ELECTRICAL, PLUMBING, GASFITTING, REFRIGERATION &  
SHEETMETAL SERVICES LTD.

**APPLICANT**

A N D :

LESLEY MELNYK

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. This dispute is about payment for ice machine and cooler repairs.

2. The applicant, Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. (Aslan), says it provided refrigeration repair services to Dolce Bistro & Cappucino Bar (Dolce), which was owned by the respondent, Lesley Melnyk. Aslan says Ms. Melnyk has not paid either of its 2 outstanding invoices and claims \$1,481.91.
3. Ms. Melnyk says she is not responsible for paying the invoices as she does not own Dolce. She asks that the claim be dismissed.
4. Aslan is represented by RH, an owner or employee. Ms. Melnyk represents herself.

## **JURISDICTION AND PROCEDURE**

5. 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). Section 2 of the CRTA states that 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 the dispute's parties that will likely continue after the CRT process has ended.
6. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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 in the interests of justice.
7. Section 42 of the CRTA says 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.

## **ISSUE**

9. The issue in this dispute is whether Ms. Melnyk must pay Aslan's invoices and, if so, how much?

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this one the applicant, Aslan, must prove its claim on a balance of probabilities. I have reviewed all evidence and submissions provided, but only refer to what is necessary to explain my decision. Ms. Melnyk provided submissions, but no evidence, despite being given the opportunity to do so.
11. Based on Aslan's invoices, work orders, and work authorization forms I find it repaired Dolce's walk in cooler on April 13, 2018 and issued an invoice for \$980.81. I further find Aslan repaired Dolce's ice machine on June 4, 2018 and issued an invoice for \$501.10.
12. Ms. Melnyk says she is not responsible for paying the invoices as Dolce is not her company. She says Dolce was owned by her daughter, who sold it in 2018. Aslan provides no contrary evidence and so I accept Ms. Melnyk's statement.
13. Aslan says Ms. Melnyk should have to pay the outstanding invoices, whether she is the owner or not, because the invoices were addressed to her, she ordered the work, and she paid for Aslan's prior 2017 invoice to Dolce.
14. I do not find that addressing an invoice to someone creates an obligation that they pay the invoice, without something further to show that they agreed to pay or received some benefit from the work done.

15. Aslan says Ms. Melnyk ordered the repair work because that's what written on the work order forms. I agree that Ms. Melnyk is listed as the person who ordered the work on Aslan's April 13 and June 4, 2018 work order forms. However, Ms. Melnyk denies she ordered the work and Aslan has not provided any evidence, such as an employee statement or telephone notes setting out that Ms. Melnyk ordered the work. As Ms. Melnyk had previously paid Aslan's 2017 invoice for work done at Dolce, I find it just as likely that Ms. Melnyk's name was generated from Aslan's computer system as part of the work order form, given it is in the same typeface as the customer name and contact information for Dolce. On balance, I find Aslan has not proven Ms. Melnyk ordered the repair work.
16. I find the work order form indicates that the work should be billed to Dolce, and not Ms. Melnyk. Further, Ms. Melnyk has not signed the work order form acknowledgment of indebtedness. While the June 4, 2018 work order is unsigned, LW signed the April 13, 2018 work order. There is no evidence about who LW is, or their relationship to either Ms. Melnyk or Dolce. On balance, I find Aslan has not proven that Ms. Melnyk agreed to pay for the April or June repair work.
17. I disagree with Aslan that Ms. Melnyk's payment for the 2017 invoice means she is also responsible for the 2018 invoices. Ms. Melnyk says she paid the 2017 invoice, less interest, to help her daughter. This does not indicate that she offered to pay any future invoices.
18. I find there was no agreement, or contract, between Ms. Melnyk and Aslan for the refrigeration services. A contract requires an offer, acceptance, and consideration, which is something of value. On balance, I find Ms. Melnyk is not responsible for Dolce's debts and did not agree to pay for Aslan's services. I further find Ms. Melnyk received no benefit from Aslan's 2018 services.
19. On balance, I find Ms. Melnyk is not responsible for paying the 2018 invoices. I dismiss Aslan's claim for \$1,481.91.

20. I note that Aslan filed its claim on May 28, 2020, more than 2 years after it issued its April 13, 2018 invoice. This is important because the *Limitation Act* says that most claims must be started within 2 years of being discovered. The parties did not provide any submissions on the limitation issue. I find it is not necessary to ask for those submissions or decide whether Aslan filed part of its claim out of time as I dismiss Aslan's claim above.
21. 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. As Aslan was unsuccessful in its claim, I find it is not entitled to reimbursement of its CRT fees. Ms. Melnyk did not claim reimbursement of any CRT fees or dispute-related expenses.

## **ORDER**

22. I dismiss Aslan's claims and this dispute.

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Sherelle Goodwin, Tribunal Member