



Civil Resolution Tribunal

Date Issued: November 26, 2020

File: SC-2020-006139

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Fraser Valley Doorman Ltd. v. Maryk*, 2020 BCCRT 1339

BETWEEN:

FRASER VALLEY DOORMAN LTD.

APPLICANT

AND:

VICTOR MARYK

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. This is a dispute about the cost of a garage door repair. The applicant, Fraser Valley Doorman Ltd. (Fraser Valley), claims \$1,360.59 in parts and labour for repairing 2 garage doors for the respondent, Victor Maryk. Mr. Maryk says that Fraser Valley overcharged him. Mr. Maryk also says that another contractor had to

fix Fraser Valley's mistakes. Mr. Maryk says that \$696 would be a reasonable cost for the repairs.

2. Fraser Valley is represented by its owner, Stewart Crang. Mr. Maryk is self-represented.

JURISDICTION AND PROCEDURE

3. 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.
4. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
5. 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.

6. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to pay money or to do or stop doing something. The tribunal's order may include any terms or conditions the CRT considers appropriate.

ISSUE

7. The issue in this dispute is how much Mr. Maryk owes Fraser Valley for the repairs to his garage doors.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, Fraser Valley as the applicant must prove its case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
9. It is undisputed that on August 4, 2020, Mr. Crang attended Mr. Maryk's house to repair Mr. Maryk's garage door. It is also undisputed that while there, Mr. Maryk installed a new motor on one garage door, installed 22 new rollers on a second garage door, and did some other maintenance work.
10. The parties do not have a written contract, and there was no written quote. The parties disagree about what Mr. Maryk and Mr. Crang discussed before Mr. Crang started the repair work. However, the parties do agree that they did not agree on a price before Mr. Crang started the repair work.
11. It is undisputed that when Mr. Crang finished working on August 4, 2020, he presented Mr. Maryk with a handwritten invoice for \$1,360.59, which Mr. Maryk signed. Mr. Maryk also gave Mr. Crang a cheque for the full amount. The parties disagree about what exactly they said to each other, but it is common ground that Mr. Maryk was surprised by the price. Mr. Maryk later stopped payment on the cheque. Mr. Maryk refused to pay because he thought that the invoice was too high.
12. Fraser Valley relies on Mr. Maryk's signature on the handwritten invoice. Fraser Valley says that this proves that Mr. Maryk agreed to the price. However, there is

nothing on the handwritten invoice to indicate what the customer agrees to by signing the invoice. I do not accept that by signing the handwritten invoice Mr. Maryk waived his right to dispute the bill.

13. Fraser Valley later sent Mr. Maryk a computer-generated invoice, which was for the same amount but more clearly broke down the various parts and labour charges. This did not convince Mr. Maryk to pay.
14. I find that the parties agreed on what work Fraser Valley would complete but did not agree on a price. In these circumstances, Fraser Valley is entitled to a reasonable amount for the goods and services it provided. This is because the law assumes that the parties implicitly agreed to a reasonable price based on the value of the work done. This concept is known as “contractual *quantum meruit*”: see *Gill Tech Framing Ltd. v. Gill*, 2012 BCSC 1913.
15. What is a fair price for Fraser Valley’s work? Mr. Maryk relies on an email from RW, who works for another garage door repair company. RW says that they quoted “roughly \$650 + GST” for “the motor, rollers and service”. There is no evidence that RW attended Mr. Maryk’s home and the email does not describe what the word “service” refers to. I find that the email is not specific enough about what RW included in their quote for me to place any weight on it.
16. I will now turn to Fraser Valley’s specific claims, starting with the parts.
17. There are 2 charges on the invoice for parts: a motor, for \$325 plus GST and 24 rollers for \$310.80 plus GST. Mr. Maryk says that these charges are too high. Fraser Valley says that it charges a markup on parts to account for the time it takes to buy them but does not say how much of a markup. I find that it is common for contractors to charge a reasonable markup for parts.
18. As for the motor, Fraser Valley did not provide any evidence about how much the motor cost, such as an invoice. Mr. Maryk provided an advertisement out of a flyer showing a garage door motor on sale for \$269.99, with a regular price of \$359.99. Mr. Maryk says that Fraser Valley provided a lower quality motor than the one in the

flyer. I find that the cost of the motor Fraser Valley supplied cannot reasonably be assessed based on a time-limited sale price of another motor. However, this is the only evidence about the cost of a garage door motor before me. Based on the fact that a regularly priced, superior motor costs \$359.99 and Fraser Valley charged \$325 inclusive of PST and markup, I find that \$325 is a reasonable price for the motor. After GST, this equals \$341.25.

19. As for the rollers, Fraser Valley charged \$310.80 for 24 rollers, or \$12.95 per roller, plus GST. Mr. Maryk provided a copy of a receipt showing that 2 rollers cost \$10.49 plus GST and PST. Again, Fraser Valley did not provide any evidence about how much it spent on rollers. It therefore appears that Fraser Valley's markup was roughly 100% for the rollers, which I find is unreasonable. Also, it is undisputed that Fraser Valley installed 22 rollers, not 24. On a judgment basis, I find that \$7 per roller represents a reasonable markup of roughly 20%, which equals \$154 for 22 rollers. After GST, this equals \$161.70.
20. Turning to the labour charges, Fraser Valley charged a total of \$660 plus GST for labour. The only evidence about how long Mr. Crang spent on the repair work comes from an email statement by Mr. Maryk's neighbour, DR. It is undisputed that DR was pressure washing Mr. Maryk's driveway when Mr. Crang arrived. DR says that he observed Mr. Crang working for about 2.5 hours. Fraser Valley provided no contradictory evidence about how long Mr. Crang worked, so I accept DR's estimate. I place no weight on the rest of DR's statement because he simply repeats Mr. Maryk's allegations without any apparent firsthand knowledge.
21. Fraser Valley says that it charges labour on a flat fee for some tasks and by the hour for other tasks. Fraser Valley does not explain how it calculated its labour charges for Mr. Maryk and does not say what its hourly rate is.
22. There is no evidence before me about the market rate for garage door repair. I find that it would be reasonable for Fraser Valley to charge a rate similar to other specialized construction or repair professionals, plus a reasonable callout fee. On a

judgment basis, I find that \$400 plus GST is a reasonable sum for Fraser Valley's labour, which is \$420.

23. Therefore, I find that \$922.95 is a reasonable sum for Fraser Valley's work.
24. Mr. Maryk also says that Fraser Valley's work on the second door was deficient. Mr. Maryk says that it was uneven and did not function properly. Fraser Valley admits this. However, Fraser Valley says that the door was level and only appeared uneven because the concrete underneath the door was uneven. Fraser Valley also says that the door only functioned improperly because Mr. Maryk did not let him return to install the last 2 rollers.
25. Mr. Maryk provided an email from AF, who says that they had to install 2 rollers and correct the door alignment. There is no evidence about what AF's qualifications are, what work they actually did to "correct the door alignment", or how much, if anything, they charged Mr. Maryk.
26. When a person alleges defective work, they bear the burden of proving the defects: *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 30. I find that AF's email does not prove that there was any defect in Fraser Valley's work or that there is any basis to deduct anything from Fraser Valley's bill.
27. I therefore order Mr. Maryk to pay Fraser Valley \$922.95.
28. The *Court Order Interest Act* applies to the CRT. Fraser Valley is entitled to pre-judgement interest on the debt from August 4, 2020, the date of Fraser Valley repaired the garage doors, to the date of this decision. This equals \$1.30.
29. 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. Fraser Valley was partially successful so I find it is entitled to reimbursement of half of its \$125 in CRT fees, which is \$67.50. Fraser Valley did not claim any dispute-related expenses.

ORDERS

30. Within 28 days of the date of this order, I order Mr. Maryk to pay Fraser Valley a total of \$991.75, broken down as follows:
 - a. \$922.95 in debt,
 - b. \$1.30 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$67.50 for half of Fraser Valley's CRT fees.

31. Fraser Valley is entitled to post-judgment interest, as applicable.

32. 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.

33. 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.

Eric Regehr, Tribunal Member