



Civil Resolution Tribunal

Date Issued: December 4, 2020

File: SC-2020-003865

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Yiworld Advertising Ltd. v. Qian*, 2020 BCCRT 1373

BETWEEN:

YIWORLD ADVERTISING LTD.

APPLICANT

AND:

YIN QIAN and 1199181 B.C.LTD

RESPONDENTS

AND:

YIWORLD ADVERTISING LTD.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a contract for signage.
2. The applicant and respondent by counterclaim, Yiworld Advertising Ltd. (Yiworld), says it provided business signage for the respondents, 1199181 B.C.Ltd (119) and Yin Qian, for which it remains unpaid. It seeks \$2,875.80, the balance it says is remaining for the signage.
3. The respondents say the signage Yiworld provided was incorrect and that Yiworld breached the parties' contract. 119 filed a counterclaim against Yiworld seeking \$2,172.80, the deposit paid towards the incorrect signage. Yiworld admits the sign was initially not the right colour and says it agreed to reface the sign, but that the respondents stopped replying to its messages trying to coordinate the fix.
4. Yiworld is represented by an employee. Ms. Qian is self-represented. 119 is represented by its director, Fang Yang.

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 parties to a dispute that will likely continue after the dispute resolution process has ended.
6. Section 39 of the CRTA says that the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Some of the evidence in this dispute amounts to a "he said, they said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the

most likely account depends on its harmony with the rest of the evidence. 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

7. Section 42 of the CRTA says that 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. In resolving this dispute, the CRT may make one or more of the following orders, where permitted by section 118 of the CRTA:
 - a. Order a party to do or stop doing something;
 - b. Order a party to pay money;
 - c. Order any other terms or conditions the CRT considers appropriate.

ISSUE

9. The issue in this dispute is whether Yiworld fulfilled the parties' agreement such that one or both of the respondents must pay the remaining balance of its invoice, or whether the signage was so incorrect that 119 is entitled to a return of its paid deposit.

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant Yiworld bears the burden of proof on a balance of probabilities. In its counterclaim, 119 bears this same burden. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.

11. At the outset I dismiss Yiworld's claims as against Ms. Qian. The invoice in evidence is addressed solely to 119 as the customer. Further, the evidence is that Ms. Qian is Mr. Yang's spouse. Although Yiworld may have had communications with Ms. Qian on behalf of 119, there is no suggestion that Ms. Qian was a party to the agreement between Yiworld and 119 in her personal capacity.
12. I turn then to the claims between Yiworld and 119.
13. It is undisputed that in the spring of 2019, 119 approached Yiworld to request signage for its restaurant. There was some discussion back and forth between the parties about the design of the logo and signage. After the parties agreed to the final mock-up, they agreed the price would be \$4,355. The respondents paid a \$2,172.80 deposit.
14. On September 17, 2019, Yiworld installed the signage at the respondents' property. On September 23, 2019, the respondents contacted Yiworld to advise they were unhappy with the signage colour. Specifically, the orange colour used in the logo did not match the orange colour used in the restaurant's name. Yiworld admits it agreed to fix the colouration at no additional cost to the respondents. The parties continued discussions about the issue, and on November 21, 2019, Yiworld again attended at the respondents' business location. Subsequently, on November 21 and 22, 2019, a Yiworld representative and a representative of the respondents corresponded by text message about new logo colouring. Yiworld says it then tried several times over the next 3 months to schedule a time to install the new logo signage, but that the respondents evaded its calls. Yiworld seeks payment of \$2,875.80, which includes \$2,704.80 for its outstanding invoice balance plus taxes, plus \$171 in permitting fees.
15. Mr. Yang says he never agreed to a new logo design, or to allow Yiworld to return to fix the signage. He says because 119 has not been provided the signage per the agreement, it should be reimbursed the \$2,172.80 deposit, which is the amount 119 seeks in its counterclaim.

16. The parties submitted translated text messages in evidence. It is not clear which communications were between Yiworld and Ms. Qian, or Yiworld and Mr. Yang. In any event, given my finding above that Ms. Qian communicated on behalf of 119, I find nothing turns on specifically which respondent sent which communications. Although 119 argues the text messages show that there was no agreement to allow Yiworld to fix the sign, I find that argument is inconsistent with the tenor of the text messages. I note that after the November 21, 2019 meeting, the parties communicated about how to change the logo to suit 119's liking, which Mr. Yang admittedly participated in and made selections. On November 29, 2019, Yiworld asked which day would work for the sign to be installed. On December 1, 2019, the respondents asked how long it would take, and Yiworld advised it would take at least one day. After this point, the respondents stopped responding to any of Yiworld's text messages or phone calls. Yiworld followed up on each of December 18, 2019 and January 24, February 14, February 24, and February 25, 2020. On February 25, 2020, the respondents replied stating they had to leave the country due to family issues for an undetermined amount of time, and that there was no rush on the sign's re-installation. I find the respondents' comment is consistent with the parties having agreed that Yiworld would replace the miscoloured portion of the sign. I do not accept 119's argument that there was no such agreement.
17. On balance, I find Yiworld substantially performed its end of the modified agreement. Although the signage colour was initially incorrect, the evidence is that the parties agreed Yiworld would prepare a new sign at 119's direction, which it did. I find 119 breached the parties' agreement by subsequently failing to allow Yiworld to install the new sign. As a result, I find Yiworld is entitled to payment for the balance of its unpaid invoice, \$2,704.80 (\$4,355 plus \$522.60 in taxes, minus the \$2,172.80 deposit). It follows that 119's counterclaim for reimbursement of its deposit is dismissed. As 119 did not claim for Yiworld to give it the corrected, but uninstalled, sign, I make no order about it.
18. Yiworld also submitted two invoices for "Sign Permits" for the respondents' business property. One is dated June 13, 2019 for a "non-refundable processing fee" of \$78

and one dated September 4, 2019 for a “permit fee (sign)” of \$93. Yiworld did not provide any submissions about these expenses, and I note the text messages in evidence do not discuss the payment of any permit fees. Additionally, Yiworld’s invoice does not indicate that permitting fees were payable by the customer, or whether they were included in Yiworld’s overall signage quote. On balance, I am not satisfied the parties had any agreement as to who would pay these fees. Therefore, I find Yiworld has not proven it is entitled to reimbursement for the permits.

19. The *Court Order Interest Act* applies to the CRT. I find Yiworld is entitled to pre-judgment interest on the \$2,704.80 from December 1, 2019, the approximate date the new signage was ready for installation. This amounts to \$35.97.
20. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As Yiworld was successful, I find that it is entitled to reimbursement of the \$125 it paid in tribunal fees. Yiworld also claims \$117.77 in dispute-related expenses, including \$105 for translation services and \$12.77 for a “land title search”. I find the translation expenses were reasonable and I order 119 to reimburse them. Yiworld did not provide an invoice for the land title search, nor explain why one was necessary. I find Yiworld is only entitled to the \$105 for translation services. As 119 was unsuccessful in its counterclaim, I dismiss its claim for reimbursement of tribunal fees.

ORDERS

21. Within 30 days of the date of this decision, I order the respondent, 1199181 B.C.Ltd (119), to pay the applicant, Yiworld Advertising Ltd. (Yiworld), a total of \$2,970.77, broken down as follows:
 - a. \$2,704.80 in debt,
 - b. \$35.97 in pre-judgment interest under the *Court Order Interest Act*,
 - c. \$125 in tribunal fees; and

- d. \$105 in dispute-related expenses.
22. Yiworld is also entitled to post-judgment interest, as applicable.
23. Yiworld's claims against the respondent, Yin Qian, are dismissed.
24. 119's counterclaim is dismissed.
25. 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.
26. 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.

Andrea Ritchie, Vice Chair

