



Civil Resolution Tribunal

Date Issued: December 22, 2020

File: SC-2020-002722

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lordco Parts Ltd. v. Barg dba Accumax Forest Services*, 2020 BCCRT
1454

B E T W E E N :

LORDCO PARTS LTD.

APPLICANT

A N D :

MATTHEW HILLARY BARG (Doing Business As ACCUMAX FOREST
SERVICES)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about unpaid invoices for store credit purchases. The applicant, Lordco Parts Ltd. (Lordco), says the respondent, Matthew Hillary Barg doing business as Accumax Forest Services, owes \$2,696.79 in unpaid invoices for store credit purchases.

2. Mr. Barg denies the claim and says he is not responsible for the debt. Rather, he says a corporation, Accumax Forest Services Ltd. (Accumax corporation), is responsible for the debts. Accumax corporation is not involved in the dispute and Mr. Barg does not explain his relationship, if any, to Accumax corporation.
3. An employee or principal represents Lordco. Mr. Barg represents himself.
4. For the reasons set out below, I find that Mr. Barg is responsible for the unpaid invoices and he must pay Lordco a total of \$2,978.40.

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 Mr. Barg owes Lordco a debt for unpaid invoices, and if so, how much must he pay Lordco.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant, Lordco, must prove its claim on a balance of probabilities. Though I have reviewed all the evidence and submissions, I only refer to what is necessary to explain my decision. I note that Mr. Barg did not provide any submissions or evidence, though CRT staff reminded him and he had the opportunity to do so.
11. Lordco says Mr. Barg entered a revolving credit agreement on May 10, 2007 to finance store purchases, with annual interest of 34.48%. The credit application identifies Mr. Barg as the borrower and Accumax Forest Services as his trade name. The credit application also says that Mr. Barg personally guaranteed any debts incurred under the agreement. There is a signature above Mr. Barg's handwritten name on the credit application. Since Mr. Barg does not dispute signing the credit agreement, I find that he did so.
12. Mr. Barg argues that Accumax corporation is solely responsible for any unpaid invoices because he says Accumax corporation made all of the debt payments. I disagree. Mr. Barg did not provide any supporting evidence showing Accumax corporation's involvement in these transactions, or even the existence of the corporation. Further, although the credit application references the trade name of Accumax Forest Services, there is no mention of Accumax corporation. I find that there is no evidence before me that the parties intended to enter an agreement with Accumax corporation rather than Mr. Barg.

13. For the above reasons, I find that Mr. Barg entered a contract with Lordco to pay for his store credit purchases and the terms of that credit application are binding on Mr. Barg. However, even if Mr. Barg had proved that Accumax corporation was responsible for the debts, I would still find Mr. Barg responsible too because Mr. Barg signed a personal guarantee to pay the debts.
14. So, I find that Mr. Barg is responsible for the unpaid invoices. Now I must determine how much Mr. Barg owes Lordco.
15. Lordco claims \$2,696.79 in debt for unpaid purchases under this agreement. This amount is shown on Lordco's statements. Lordco has provided 9 invoices dated from October to December, 2019 showing purchases totaling \$2,862.92. Lordco's statements show additional purchases which are not shown on the invoices provided. Since Mr. Barg does not dispute the amount owed under agreement, I find that the outstanding balance of \$2,696.79 shown on Lordco's statements is unpaid. I find that Mr. Barg owes this amount.
16. This leaves the matter of pre-judgment interest. Although the parties' contract allows for contractual interest, the invoices do not include any interest and Lordco did not claim any. The *Court Order Interest Act* (COIA) applies to the CRT. In *Super Save Disposal Inc. v. Pretty*, 2020 BCCRT 1368, the applicant did not claim for contractual interest, though as is the case here, the parties' contract allowed for it. The CRT Vice Chair did not order pre-judgment interest on the applicant's debt claim because the COIA says it does not apply where there is an agreement about interest. I agree with the Vice Chair's reasoning and find it applicable to the contract in this dispute. So, I make no order for pre-judgment interest under the COIA on unpaid invoices as there is an agreement about interest.
17. 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 Lordco is entitled to reimbursement of \$125 in CRT fees.

18. Lordco also requests reimbursement of \$156.51 as a dispute-related expense for the cost of serving Mr. Barg with the Dispute Notice. The CRT records show that Lordco needed to serve Mr. Barg with the Dispute Notice because the CRT was unable to serve Mr. Barg by regular mail. Lordco provided a June 9, 2020 invoice in the amount of \$156.61 for these process server fees. I am satisfied that the \$156.61 is a dispute-related expense reasonably incurred in this dispute. So, I find that Lordco is entitled to reimbursement of \$156.61 in dispute-related expenses.

ORDERS

19. Within 30 days of the date of this order, I order Mr. Barg to pay Lordco a total of \$2,978.40 broken down as follows:
- a. \$2,696.79 in debt for unpaid invoices, and
 - b. \$281.61, for \$125 in CRT fees and \$156.61 for dispute-related expenses.
20. Lordco is entitled to post-judgment interest, as applicable.
21. 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.

22. 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.

Richard McAndrew, Tribunal Member