



Civil Resolution Tribunal

Date Issued: January 25, 2021

File: SC-2020-005373

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Maple Leaf Disposal Ltd. v. Pardeep Chahal dba Pardeep Painting Services*, 2021 BCCRT 86

B E T W E E N :

MAPLE LEAF DISPOSAL LTD.

APPLICANT

A N D :

PARDEEP CHAHAL (Doing Business As PARDEEP PAINTING SERVICES)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This is a contract dispute. The applicant, Maple Leaf Disposal Ltd., says it had a waste services agreement with the respondent, Pardeep Chahal (doing business as

Pardeep Painting Services), but never received payment for the services it performed. The applicant asks for an order that the respondent pay it \$693.89 in outstanding invoices, \$753.50 liquidated damages, and contractual interest. The respondent denies that they owe the applicant any money.

2. The applicant is represented by an employee. The respondent is represented by a family member.

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). 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.
4. 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.
5. 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 do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

7. The issues in this dispute are:
 - a. Whether there was there a binding contract between the applicant and the respondent,
 - b. Whether the respondent must pay the applicant for \$693.89 in outstanding invoices for services provided, plus contractual interest, and
 - c. Whether the respondent must pay the claimant \$753.50 in liquidated damages.

EVIDENCE AND ANALYSIS

8. In a civil dispute like this, an applicant bears the burden of proof on a balance of probabilities. The applicant provided evidence and both parties provided submissions in support of their respective positions. While I have considered all of this information, I will refer to only what is necessary to provide context to my decision.
9. The applicant says that, on July 16, 2019, it made an agreement with the respondent to provide waste disposal services. It says that it provided services but never received any payment from the respondent. The applicant says it suspended services to the applicant when payment was not received, but continued to charge the basic monthly charge that it says was permitted by the service agreement. It terminated the agreement, removed its equipment from the respondent's property, and commenced this dispute in July of 2020.
10. The applicant's position is that it is entitled to payment of \$693.89 for 13 outstanding invoices, contractual interest on the unpaid amounts, and \$753.50 in liquidated damages.
11. The respondent says that there was no agreement with the applicant, but admits that they had dealings with the applicant were over the phone. According to the respondent, the applicant was supposed to empty the waste bin every other week but this did not happen. The respondent first said that the applicant never emptied the

waste bin, but later stated that the bin was emptied “just once”. The respondent denies that the applicant is owed the amounts it claims, and suggests that the applicant has been dishonest in its business practices.

Was there a contract between the applicant and the respondent?

12. Although dealings over the phone that the respondent describes could have resulted in a binding verbal agreement between the parties, the evidence contains a written July 16, 2019 Customer Service Agreement. The agreement consists of 2 pages of pre-printed terms, with some blanks that were filled in with handwritten information. This agreement was signed, and alterations initialed by, a person who is identified both as “Pardeep Chahal” and “Pardeep Kaur”. The agreement, which has a 3-year term, contains the same address and telephone number that the respondent is using for this dispute. It contains an email address that includes the letters “BChahal” and identifies another individual, GC, as the respondent’s contact person.
13. The respondent’s submissions do not dispute the validity of the signature on the agreement. The respondent did not provide evidence to suggest that their signature differs from the one on the agreement. The respondent suggested that there had been a misunderstanding as their usual email address was not included on the agreement. The respondent did not explain the details of their relationship with “BChahal” or GC, or how the applicant could have obtained the contact information noted on the agreement if not from them.
14. As noted, the respondent admits that they had some sort of arrangement with the applicant, but denies that there was any agreement. I find the fact that the respondent allowed the applicant to place a waste bin on their property to be significant, and find that this is not likely to have occurred if there was no agreement for the applicant to provide services to the respondent.
15. Based on the information before me, I find that the written Customer Service Agreement in evidence represents a binding agreement between the parties.

Outstanding Invoices and Contractual Interest

16. The respondent admits to not having paid the applicant's invoices, and does not suggest that the agreement was cancelled at any time. Instead, the respondent says that the applicant did not provide the services every other week.
17. The respondent's view of the service schedule is not consistent with the contents of the agreement. According to the agreement, the service was to occur "E4W", which I infer means every 4 weeks for a basic monthly charge of \$40, plus diesel surcharges and a \$75 initial delivery charge.
18. According to a Customer Work History sheet provided by the applicant, it delivered equipment to the respondent on July 17, 2019 and provided service on August 7 and September 4, 2019. It was not successful in its attempt to provide service on October 2 as the bin was blocked, but completed it on October 3, 2020. I find that it is more likely than not that the applicant performed service 3 times, not the 1 time asserted by the respondent. Therefore, the respondent is responsible for the July 31 invoice for bin delivery and for monthly charges listed in the August 31, September 30 and October 31, 2019 invoices.
19. Under the terms of the parties' agreement, the applicant was permitted to suspend services if its invoices were not paid. The agreement also allowed the applicant to continue to charge the respondent for the basic monthly amount during the suspension period and, if the invoices remained unpaid, the applicant could choose to terminate the agreement. In this case, the applicant suspended the respondent's service in October of 2019 and continued to charge the basic monthly amount until it terminated the agreement in July of 2020. As this practice was specifically permitted by the parties' agreement, I find that the respondent is also responsible for the applicant's invoices dated between November 30, 2019 and June 30, 2020.
20. The outstanding invoices, exclusive of interest, total \$693.89. The agreement says that a "service charge" of 2% per month or an annual rate of 26.824% applies to

balances over 30 days, accruing from the invoice date. I find that this “service charge” is actually interest, and note that it is described as interest on the applicant’s invoices.

21. The applicant claims interest of \$86.12 up to July 13, 2020, being the date it filed its application to the CRT. I find that the applicant is entitled to this amount, plus an additional \$98.28 in contractual interest for the period between the Dispute Notice and the date of this decision. When calculating this amount, I took into consideration the fact that interest would not apply to the June 30, 2020 invoice until the balance was outstanding for 30 days. The applicant’s total entitlement to contractual interests is \$184.40.

Liquidated Damages

22. The respondent also asks for \$753.50 for liquidated damages.
23. The parties’ agreement says that if the applicant terminates the agreement due to the respondent’s default (as it did here), it is entitled to liquidated damages to represent its anticipated losses. The agreement provides that the damages are set at a sum equal to 50% of the average monthly charge for the most recent 6 months of service multiplied by the number of months remaining in the current term. The respondent calculated its liquidated damages based on an average monthly charge of \$46 and 24 months remaining in the agreement’s term. The respondent also claims bin removal charges of as permitted by the agreement. These amounts are \$614.38 and \$139.13, inclusive of GST.
24. My calculation shows a total of \$753.51, but the applicant claims only \$753.50 and I find that it is entitled to this amount.
25. Under section 49 of the CRTA and CRT rules, the CRT generally will 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 the applicant is entitled to reimbursement of \$125 in CRT fees. There was no claim for dispute-related expenses.

ORDERS

26. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$1,756.79, broken down as follows:
- a. \$693.89 in debt under the parties' agreement,
 - b. \$184.40 in contractual interest,
 - c. \$753.50 in liquidated damages, and
 - d. \$125 in CRT fees.
27. The applicant is entitled to post-judgment interest, as applicable.
28. 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.

29. 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.

Lynn Scrivener, Tribunal Member