



# Civil Resolution Tribunal

Date Issued: January 29, 2021

File: SC-2020-006421

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lundquist dba Everything Electric Company v. MacIntosh Highlands Master Builders Ltd. dba Highlands Master Builders, 2021 BCCRT 117*

B E T W E E N :

RYAN LUNDQUIST (Doing Business As EVERYTHING ELECTRIC COMPANY)

**APPLICANT**

A N D :

MACINTOSH HIGHLANDS MASTER BUILDERS LTD. dba  
HIGHLANDS MASTER BUILDERS

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## **INTRODUCTION**

1. This dispute is about payment for electrical work. The applicant, Ryan Lundquist, doing business as Everything Electric Company, claims that the respondent MacIntosh Highlands Master Builders Ltd., doing business as Highlands Master Builders, (MacIntosh) owes \$1,627.61 for unpaid electrical work.
2. MacIntosh does not dispute owing Mr. Lundquist's claimed debt. However, MacIntosh claims a set-off because it says Mr. Lundquist owes damages for failing to complete the project.
3. Mr. Lundquist is self-represented. MacIntosh is represented by its president.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.

7. 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.
8. MacIntosh says it has a counterclaim against Mr. Lundquist for not finishing his work in breach of the contract. MacIntosh says it suffered damages because it had to pay another contractor more to complete the project. However, I find that MacIntosh has not filed a counterclaim as required by CRT rule 3.2 even though it had an opportunity to do so. Rather, MacIntosh has attempted to allege a counterclaim in its Dispute Response. I find that this is not a properly filed counterclaim under CRT rule 3.2. In the absence of a counterclaim, I have considered whether Macintosh has proved it is entitled to any set-off against the debt to Mr. Lundquist.

## **ISSUES**

9. The issues in this dispute are:
  - a. Does MacIntosh owe Mr. Lundquist a debt for unpaid electrical work, and if so, how much?
  - b. Is MacIntosh entitled to a setoff from the amount owed because Mr. Lundquist allegedly breached the contract?

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, the applicant, Mr. Lundquist, must prove his claim on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant to provide context for my decision. I note that MacIntosh did not provide any evidence or submissions even though the CRT gave it multiple opportunities to do so.
11. The following facts are undisputed. Mr. Lundquist quoted MacIntosh \$5,747.11 for electrical work and MacIntosh hired him. Mr. Lundquist stopped working on the project after he installed 2 circuits and an outlet. Mr. Lundquist says he stopped

working because he was not paid. Mr. Lundquist says he performed \$1,627.61 of unpaid electrical work which MacIntosh does not dispute. As Mr. Lundquist's claimed debt is not disputed, I find that MacIntosh owes Mr. Lundquist \$1,627.61 for unpaid work.

12. I have considered whether MacIntosh is entitled to a setoff from Mr. Lundquist's charges. MacIntosh's Dispute Response says that Mr. Lundquist breached the contract by failing to complete the project. MacIntosh says it needed to pay another contractor \$14,511 to finish the work.
13. MacIntosh has the burden of proving that it is entitled to a setoff against Mr. Lundquist's claim. I find MacIntosh has failed to do so because it has not provided any supporting evidence or submissions. I find that MacIntosh has not proved the terms of the contract, that Mr. Lundquist breached the contract or that MacIntosh has suffered any damages. So, I find that MacIntosh has failed to prove that it is entitled to a setoff from Mr. Lundquist's charges.
14. I find MacIntosh must pay Mr. Lundquist the claimed \$1,627.61.
15. The *Court Order Interest Act* (COIA) applies to the CRT. Mr. Lundquist is entitled to pre-judgment interest on the debt of \$1,627.61 from the date this debt became due. However, there is no evidence before me showing when Mr. Lundquist completed his work or invoiced MacIntosh. So, I find that Mr. Lundquist is entitled to pre-judgment interest from August 19, 2020, the date he started this dispute, to the date of this decision. This equals \$3.28.
16. 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 Mr. Lundquist is entitled to reimbursement of \$150 in CRT fees. There is no claim for reimbursement of dispute-related expenses.

## ORDERS

17. Within 30 days of the date of this order, I order MacIntosh to pay Mr. Lundquist a total of \$1,780.89, broken down as follows:
  - a. \$1,627.61 in debt for unpaid work,
  - b. \$3.28 in pre-judgment interest under the COIA, and
  - c. \$150 CRT fees.
18. Mr. Lundquist is entitled to post-judgment interest, as applicable.
19. I refuse to resolve MacIntosh's requested counterclaim.
20. 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.

21. 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.

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Richard McAndrew, Tribunal Member