



# Civil Resolution Tribunal

Date Issued: February 23, 2021

File: SC-2020-007180

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. v. Prestige Vernon Lodge Holdings Ltd.*, 2021 BCCRT 215

B E T W E E N :

ASLAN ELECTRICAL, PLUMBING, GASFITTING, REFRIGERATION &  
SHEETMETAL SERVICES LTD.

**APPLICANT**

A N D :

PRESTIGE VERNON LODGE HOLDINGS LTD.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about payment for plumbing services. The applicant, Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. (Aslan) is a plumbing

contractor. The respondent, Prestige Vernon Lodge Holdings Ltd. (Prestige) operates a hotel. Prestige called Aslan for urgent plumbing services to unclog a drain. Aslan tried to unclog the drain but was unable to do so. Aslan says Prestige owes \$283.50 for unpaid work.

2. Prestige admits that it hired Aslan and has not paid it. However, Prestige says it does not owe Aslan a debt because it failed to complete the repairs and Aslan allegedly did not make much of an effort.
3. Both parties are represented by employees.

## **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. I note that, due to a technical issue, the PDF version of the Dispute Notice cropped the applicant's name. However, I have confirmed that the applicant did file this dispute in the name noted in the style of cause above.
9. I note that Aslan submitted evidence late. I find that Prestige was not prejudiced by the late evidence because it had an opportunity to respond. So, I have allowed Aslan's late evidence and I have considered that evidence in my decision.

## **ISSUE**

10. The issue in this dispute is how much, if anything, does Prestige owe Aslan for unpaid plumbing services.

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the applicant Aslan must prove its 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.
12. It is undisputed that Prestige called Aslan on December 1, 2019, a Sunday, to urgently unclog its drain. Further, it is undisputed that Aslan sent a plumber, MP, to Prestige's hotel the same day but MP was unable to clear the blockage.
13. Neither party provided a written contract or described any agreement about the contract price before the work was performed. When parties have a contract for goods or services, clearly intended to be paid for, but have failed to specify the price, a reasonable price can be implied (see *Hugh's Contracting Ltd. v. Stevens*, 2015 BCCA 491 at paragraph 26). It is undisputed that Aslan went to Prestige's hotel to perform plumbing work. I find that Aslan's services was not a gift. So, I find it appropriate to

imply a term that Prestige would pay a reasonable price for Aslan's work. I shall discuss the price in detail below.

14. Prestige's assistant general manager, CM says a plumbing clog was reported in a guest room on December 1, 2019 and she called Aslan to unclog it. RE, a Prestige maintenance contractor says he saw Aslan's employee, MP try to unclog the drain. RE says MP tried to use the snake a few times but MP said the snake was too big. RE says that MP did not try very hard to unclog the drain. RE says that another plumbing contractor was hired after Aslan left and it was able to unclog it. Prestige's general manager, DG, says that Aslan did not return or follow up after MP left the work unfinished on Sunday.
15. Aslan agrees that it was unable to clear the drain on December 1, 2019. Aslan says its plumber made arrangements to finish the work on Monday so the overtime rate would not continue. MP provided a statement saying that he could not complete the work on Sunday because his auger was getting stuck and he needed to return with another worker the following day. MP said it was a difficult job and he was sweating profusely. Although MP did not mention overtime charges in his statement, I find that nothing turns on this.
16. Prestige says that MP worked at the hotel for approximately 30 minutes. Aslan provided GPS tracking records which show that MP headed to the hotel at 10:36 am and he was there until approximately 11:23 am. Based on the GPS tracking information, I find that MP performed approximately 1 hour of plumbing services for Prestige. It is undisputed that Aslan did not perform any further plumbing work at Prestige's hotel after December 1, 2019.
17. Aslan issued Prestige an invoice of \$283.50 for its December 1, 2019 plumbing services. The invoice charged \$10 for supplies, 1 hour of labour at a Sunday labour rate of \$196 per hour, \$49 for a drainage machine, and \$15 for a truck fee. It is undisputed that Prestige has not paid the invoice.

18. I find that Aslan has sufficiently proved that it is entitled to its \$196 in labour charges. Based on the GPS records, I am satisfied that Aslan has provided Prestige 1 hour of plumbing services. Although Prestige says that Aslan did not perform the work adequately, there is no expert evidence before me showing Aslan's service was below the standard of care expected of plumbers. Further, I find that Prestige hired Aslan for the time it reasonably spent to work on the clogged drain, rather than for completing the work. So, even though Aslan not successful, I find that it is entitled to the payment for the work it performed. I also note that Prestige has not disputed the reasonableness of Aslan's hourly rate. Since this hourly rate is not disputed, I am satisfied Aslan's \$196 hourly rate is reasonable.
19. Further, I am satisfied that Aslan's \$49 fee for the drainage machine and the \$15 truck fee were related to Aslan's plumbing service. So, I find that Aslan is entitled to these expenses.
20. However, I find that Aslan has not provided sufficient evidence to prove that it used any supplies. Aslan has not provided any receipts for the supplies or descriptions of the supplies used. The only supplies MP described was a cap which he says Prestige provided. So, I deny Aslan's claim of \$10 for supplies. After deducting the \$10 supply expense, plus tax, I find that \$273 is a reasonable price for the work performed. So, I find that Prestige owes Aslan \$273.
21. Aslan requests contractual interest for the unpaid invoice. Aslan does not say how much contractual interest it claims. However, Aslan's December 1, 2019 invoice says that annual interest of 19.56% is payable on unpaid accounts so I infer that Aslan is claims 19.56% annually. Prestige says that it did not agree to pay interest.
22. I find that Aslan has not proved that Prestige agreed to pay contractual interest. Aslan has not provided any evidence that it discussed interest fees with Prestige or that Prestige agreed to pay interest. As stated in *N.B.C. Mechanical Inc. v. A.H. Lundberg Equipment Ltd.*, 1999 BCCA 775, "a right to charge interest cannot be based simply on a unilateral assertion in an invoice". I find Aslan is instead entitled to pre-judgment

interest under the *Court Order Interest Act* (COIA). Calculated from the December 1, 2019 invoice date to the date of this decision, this equals \$3.91.

23. 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. Since Aslan was generally successful, I find Aslan is entitled to reimbursement of \$125 in CRT fees. There was no request for reimbursement of dispute-related expenses.

## **ORDERS**

24. Within 30 days of the date of this order, I order Prestige to pay Aslan a total of \$401.91, broken down as follows:

- a. \$273 in debt for unpaid work,
- b. \$3.91 in pre-judgment interest under the COIA, and
- c. \$125 in CRT fees.

25. Aslan is entitled to post-judgment interest, as applicable.

26. 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.

27. 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