



Civil Resolution Tribunal

Date Issued: March 9, 2021

File: SC-2020-005015

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ron W. Hampton Inc. dba Hampton & Company Accountants v. Darren Hart Law Corporation dba Hart Legal*, 2021 BCCRT 266

BETWEEN:

RON W. HAMPTON INC. dba HAMPTON & COMPANY ACCOUNTANTS and
RONALD HAMPTON

APPLICANTS

AND:

DARREN HART LAW CORPORATION dba HART LEGAL and
PETER DARREN STEVEN HART

RESPONDENTS

AND:

RON W. HAMPTON INC. dba HAMPTON & COMPANY
ACCOUNTANTS

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a dispute about accounting services. The applicant and respondent by counterclaim is Ron W. Hampton Inc. dba Hampton & Company Accountants (Hampton & Co.). The applicant Ronald Hampton (RH) is the principal of Hampton & Co. The applicants say Hampton & Co. provided accounting and tax services to the respondent and applicant by counterclaim, Darren Hart Law Corporation dba Hart Legal (Hart Legal), for which it has not been paid. The respondent Peter Darren Steven Hart (PDSH) is the principal of Hart Legal. The applicants say PDSH agreed to personally guarantee payment of Hart Legal's accounting bills to Hampton & Co.
2. Hampton & Co. and RH want Hart Legal and PDSH to pay them \$5,000 for unpaid accounting services, plus contractual interest.
3. Hart Legal says it does not owe Hampton & Co. or RH anything because Hampton & Co. breached its agreement and was negligent in its provision of accounting services, causing Hart Legal to suffer damages. Hart Legal counterclaims against Hampton & Co. for \$5,000 in damages.
4. PDSH says it does not owe Hampton & Co. or RH anything, and that their claims should only be against Hart Legal.
5. Hampton & Co. says Hart Legal's counterclaim is factually incorrect and that it performed all accounting services to the professional standards mandated by the Chartered Professional Accountants of BC. It says it does not owe Hart Legal anything.

6. Hampton & Co. is represented by an employee or principal, and RH is self-represented. Hart Legal and PDSH were both represented by PDSH while they participated in the dispute process.

JURISDICTION AND PROCEDURE

7. 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.
8. 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. 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. I also note the decision *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, in which the court recognized the tribunal's process and that oral hearings are not necessarily required where credibility is in issue.
9. 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.
10. 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.

11. There is nothing in the evidence to indicate that RH acted in their personal capacity with respect to any of the issues raised in this dispute. Neither RH nor Hampton & Co. have explained why RH is a party to this dispute. For these reasons I dismiss RH's claims against Hart Legal and PDSH.

ISSUES

12. The issues in this dispute are:

- a. Is Hampton & Co. entitled to payment of \$5,000 for unpaid accounting services, and if so, by whom?
- b. Is Hampton & Co. entitled to contractual interest on any amount owing?
- c. Is Hart Legal entitled to \$5,000 in damages?

EVIDENCE AND ANALYSIS

13. In a civil claim like this one, Hampton & Co. must prove its claims on a balance of probabilities. This means I must find it is more likely than not that its position is correct. Likewise, Hart Legal must prove its counterclaim on a balance of probabilities.

14. Hart Legal and PDSH chose not to provide evidence or submissions despite the CRT having provided them with multiple opportunities to do so over an almost two-month period.

15. I have only addressed the evidence and submissions before me to the extent necessary to explain my decision.

Is Hampton & Co. entitled to payment of \$5,000 for unpaid accounting services, and if so, by whom?

16. It is undisputed that Hampton & Co. provided accounting services to Hart Legal in 2019. The question is whether its services were negligent or in breach of the parties' agreement such that it is not entitled to payment.
17. Hampton & Co. submitted a May 1, 2019 engagement letter with Hart Legal outlining the services Hampton & Co. agreed to provide (engagement letter). These services included preparing financial statements and corporate tax returns.
18. Hampton & Co. submitted a July 2, 2019 invoice to Hart Legal for \$5,460 for its accounting services (invoice). I note that Hampton & Co. has abandoned the amount over \$5,000 to remain within the CRT's small claims monetary jurisdiction. Neither Hart Legal nor PDSH dispute the invoice amount, or that Hampton & Co. performed the services described in the invoice. Rather, Hart Legal and PDSH say the financial statements and tax returns Hampton & Co. prepared were late, inaccurate, and filed against their wishes.
19. I find Hampton & Co.'s evidence shows that it prepared the financial statements and tax records based on information Hart Legal provided to it. I find its evidence also shows that Hart Legal signed several documents attesting to the accuracy of the prepared financial statements, taking sole responsibility for their content, and authorizing Hampton & Co. to file tax returns on its behalf. I place no weight on Hart Legal's more general assertion in its Dispute Response that it did not authorize the filings, since it provided no evidence and chose not to address Hampton & Co.'s evidence. On balance, I am satisfied that Hampton & Co. completed the work described in the engagement letter and that Hart Legal is required to pay it \$5,000.
20. The next question is whether PDSH is also personally liable to pay this amount. PDSH said it is not the proper party to this dispute but provided no explanation. The engagement letter states that, as principal of Hart Legal, PDSH would be liable for any unpaid bills, and that PDSH signed the letter as a personal guarantor. There is only one signature from PDSH at the bottom of the document, and that signature

indicates PDSH signed as a representative of Hart Legal. There is no separate signature from PDSH indicating that they signed in their personal capacity.

21. In *Gescan v. Vancouver Green Electric Ltd.*, 2017 BCCA 116, the BC Court of Appeal found that where one person signs a contract in their capacity as a representative of a company, that same signature may bind the individual in their personal capacity as guarantor if the context and wording of the contract are clear and unambiguous about the parties' intentions. That decision is binding on me. I find the wording of the engagement letter is clear and unambiguous. In the circumstances, and in the absence of any evidence or submissions on this issue from Hart Legal, I find PDSH's signature on the engagement letter makes him personally liable as a guarantor. Therefore, I find PDSH is jointly and severally liable to pay Hampton & Co. \$5,000 for unpaid accounting services.

Is Hampton & Co. entitled to contractual interest on any amount owing?

22. Hampton & Co. claims contractual interest on the amount owing for its unpaid accounting services. The engagement letter states that all accounts are due at the time of presentation, and that Hampton & Co. would charge interest at 1.5% per month, or 18% annually, on overdue accounts. However, the BC Provincial Court in *Telus Services Inc. v. Hussey*, 2016 BCPC 41 and *Canadian Tire Bank v. Konkin*, 2018 BCPC 151 determined that contractual interest is a substantive claim under the contract. The CRT has followed this decision in many of its decisions, which are not binding on me but which I find persuasive. The CRT's small claims monetary jurisdiction limit is \$5,000, and Hampton & Co. agreed to abandon the amount of all claims over \$5,000. Having found Hampton & Co. is entitled to \$5,000 for unpaid accounting services, I find it is unnecessary to determine Hampton & Co.'s entitlement to contractual interest.
23. The *Court Order Interest Act* (COIA) applies to the CRT. However, section 2(c) of the COIA says interest under the COIA does not apply where the parties have an agreement about interest. I find the engagement letter includes a clear term about

interest, as explained above. Therefore, I find the parties have an agreement on interest, and COIA interest does not apply to Hampton & Co.'s claim.

Is Hart Legal entitled to \$5,000 in damages?

24. Hart Legal counterclaims that Hampton & Co.'s allegedly late, inaccurate, and improperly filed financial statements and tax returns caused Hart Legal to incur "tens of thousands of dollars" in damages and undermined its solvency. To remain within the CRT's small claims monetary jurisdiction limit, it limited its claim to \$5,000. I have already found that Hampton & Co. performed the accounting services for Hart Legal and is entitled to the amount claimed for those services. Aside from Hart Legal's broad statement in its Dispute Notice, it provided no evidence, submissions, or details to support its counterclaim, and so I dismiss it in its entirety.

25. 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. Although not specifically claimed, since Hampton & Co. was successful, I find it is entitled to reimbursement of \$125 in CRT fees. Since Hart Legal was unsuccessful in its counterclaim, I find it is not entitled to reimbursement of CRT fees. None of the parties claimed any dispute-related expenses.

ORDERS

26. Within 14 days of the date of this order, I order Hart Legal and PDSH to pay Hampton & Co. a total of \$5,125, broken down as follows:

- d. \$5,000 in debt as payment of Hampton & Co's invoice, and
- e. \$125 in CRT fees.

27. Hampton & Co. is entitled to post-judgment interest, as applicable.

28. I dismiss RH's claims.

29. I dismiss Hart Legal's counterclaim in its entirety.
30. 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.
31. 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.

Sarah Orr, Tribunal Member