



Civil Resolution Tribunal

Date Issued: March 11, 2021

File: SC-2020-007581

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Peter Y. Pang Inc. v. Chong*, 2021 BCCRT 277

BETWEEN:

PETER Y. PANG INC.

APPLICANT

AND:

CARLY CHONG and CHESTER CHONG

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about unpaid accounting services.
2. The applicant, Peter Y. Pang Inc. (Pang), says it provided accounting services to the respondents, Carly Chong and Chester Chong, which the Chongs have refused to

pay for. Pang seeks \$945, the amount of its outstanding invoice, plus 57.35% contractual annual interest. The Chongs say the invoice and contractual interest rate are too high, and are otherwise out of time under the *Limitation Act*.

3. Pang is represented by its principal, Peter Pang. The Chongs are self-represented.

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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.
6. Section 42 of the CRTA says that 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. In resolving this dispute the CRT may make one or more of the following orders, where permitted by section 118 of the CRTA:

- a. Order a party to do or stop doing something;
- b. Order a party to pay money;
- c. Order any other terms or conditions the CRT considers appropriate.

ISSUES

8. The issues in this dispute are:
 - a. Whether Pang's claim is out of time under the *Limitation Act*, and
 - b. If not, whether the Chongs are responsible to pay Pang's outstanding \$945 invoice, and if so, whether Pang is entitled to the contractual interest claimed.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant Pang bears the burden of proof on a balance of probabilities. While I have read all of the parties' evidence and submissions, I have only addressed the evidence and arguments to the extent necessary to explain my decision.
10. It is undisputed that the Chongs hired Pang to complete each of their 2017 personal tax returns. The Chongs both signed a March 19, 2018 engagement letter which set out that they agreed to pay Pang's "regular billing rates" to complete the tax returns, plus 57.35% annual contractual interest on invoices outstanding after 30 days. The letter also states the Chongs "reviewed [Pang's] billing and found it to be satisfactory".
11. Attached to the March 19, 2018 letter was an invoice of the same date, addressed to the Chongs, as well as copies of each of Mr. and Mrs. Chong's 2017 personal income tax returns. The invoice indicates it was for the preparation of two returns, plus meeting and discussions about general and tax planning matters, for a total of \$900 plus \$45 GST. The invoice also stated it was payable immediately and subject to annual interest of 57.35% on overdue accounts.

12. It is not clear when exactly Pang sent the invoice to the Chongs, whether it was attached to the letter signed by the Chongs on March 19, 2018 or sent at a later date. A September 7, 2018 email from Mrs. Chong to Pang asked for Pang's invoice for the 2017 returns. In an email response on the same date, a Pang employee attached the March 19, 2018 invoice. Therefore, I find Pang sent its invoice to the Chongs by September 7, 2018 at the latest.
13. In a September 11, 2018 email, the Chongs argued the invoice was for 4 individuals' tax returns, and asked the invoice be revised to include only services for Mr. and Mrs. Chong. Similarly, in this dispute, the Chongs say Pang overcharged them for the tax returns, and say the \$945 was actually for the returns of 4 individuals, not just the two of them. Notably, the March 19, 2018 agreement states it was for the personal returns of Mr. and Mrs. Chong, and is signed by only Mr. and Mrs. Chong.
14. In any event, the issue is whether Pang's claims are out of time under the *Limitation Act*. As the parties did not specifically address this issue in their submissions, I requested additional submissions from them about the applicability of the *Limitation Act* in this case, which they each provided.

Limitation Period

15. The *Limitation Act* applies to disputes before the CRT. The *Limitation Act* sets out limitation periods, which are specific time limits for pursuing claims. If the time limit expires, the right to bring the claim disappears, and the claim must be dismissed.
16. Section 6 of the *Limitation Act* says that the basic limitation period is 2 years from the date a claim is discovered. If that period expires, the right to bring a claim ends, even if the claim would have otherwise been successful. A claim is "discovered" when an applicant knew or reasonably knew they had a claim against the respondent, and that a court or tribunal proceeding was an appropriate remedy.
17. Here, Pang filed its CRT dispute on October 13, 2020. This means if its claim for payment of its outstanding invoice was discovered or discoverable before October 13, 2018, Pang filed its claim too late. As noted above, I find Pang delivered its invoice

to the Chongs by September 7, 2018 at the latest. The invoice states payment was due immediately upon the invoice's receipt. Also, Pang clearly knew there was a potential issue about payment by September 11, 2018, when the Chongs complained about the bill.

18. In its response to my request for additional submissions on the limitation issue, Pang said it continued to have "ongoing phone communication" with the Chongs from March 21, 2018 to April 9, 2019, at which time the Chongs stopped answering its calls. Notably, Pang did not explain what the phone communications were about, nor does it say that the Chongs ever acknowledged in any of those communications that they owed Pang any money.
19. I find the parties' calls did not extend the limitation period. Under section 24 of the *Limitation Act*, a limitation period is extended if liability is acknowledged in writing or, in some circumstances, by partial payment. There is no evidence here the Chongs acknowledged liability for the invoice in writing (or at all), or made a partial payment. The fact the parties may have had ongoing discussions does not in itself extend the limitation period.
20. Based on the above, I find that Pang's claims are barred by the *Limitation Act*, because they were filed more than 2 years after its claims were discovered or discoverable. Given this conclusion, I have not considered the merits of Pang's claims. I dismiss Pang's claims.
21. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As Pang was not successful, I find that it is not entitled to reimbursement of its paid tribunal fees. The Chongs did not pay CRT fees. No dispute-related expenses were claimed.

ORDER

22. I order Pang's claims, and this dispute, dismissed.

Andrea Ritchie, Vice Chair