



# Civil Resolution Tribunal

Date Issued: March 19, 2021

File: SC-2020-006223

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lin v. Ali*, 2021 BCCRT 307

BETWEEN:

GINA LIN

**APPLICANT**

AND:

JOHN ALI

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

David Jiang

## INTRODUCTION

1. This dispute is about who is responsible for repairs to a sprinkler system. The applicant, Gina Lin, hired the respondent, John Ali, to turn off her sprinkler valve. Ms. Lin says Mr. Ali subsequently returned and at that time intentionally damaged her sprinkler system. Ms. Lin seeks reimbursement of \$840 for repairs. In submissions,

Ms. Lin also claims \$3,000 as compensation for “suffering” and time spent on this dispute.

2. Mr. Ali denies Ms. Lin’s claims. He says he did not cause any damage and completed work that Ms. Lin should have paid for. Mr. Ali did not file a counterclaim.
3. The parties represent themselves.
4. For the reasons that follow I dismiss Ms. Lin’s claims.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. 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. Some of the evidence in this dispute amounts to a “she said, he said” scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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.

7. 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.
8. 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.

## **ISSUE**

9. The issue in this dispute is whether Mr. Ali damaged Ms. Lin's sprinkler system, and if so, what remedies are appropriate.

## **EVIDENCE AND ANALYSIS**

10. In a civil claim like this one, the applicant Ms. Lin must prove her claims on a balance of probabilities. I have reviewed all the evidence and submissions but only address them to the extent necessary to explain my decision. I note that only Ms. Lin chose to submit evidence in this dispute. Mr. Ali relied only on his submissions.
11. I begin with the undisputed facts. Ms. Lin lives in a house built in 2019. The home's builder, B, arranged for installation of a lawn sprinkler system. At some point after it was completed, B referred Ms. Lin to Mr. Ali for the task of shutting off the sprinkler valve. Ms. Lin says the valve needed to be turned off annually, so I infer it was to winterize the system. Text messages show that in late October 2019, Ms. Lin agreed to pay Mr. Ali \$80 to turn off the valve. It is undisputed that Mr. Ali completed this work and Ms. Lin paid him.
12. On February 2, 2020, Mr. Ali texted Ms. Lin that he would be coming over the next day to "make the changes on your system". The parties dispute what this meant and what happened next.

13. Mr. Ali gives the following account. He says that when he arrived at Ms. Lin's house in October 2019, he had difficulty reaching the sprinkler valve because it had been installed at an improper depth. He arranged with Ms. Lin to return in February 2020 to dig up the sprinkler system and raise it to a proper height. He says he completed this work and Ms. Lin refused to pay for this service. He does not say how much he charged, and as noted above did not file a counterclaim.
14. In contrast, Ms. Lin gives the following account. Mr. Ali returned to the house in early February 2020 to complete unfinished work from the last time. Mr. Ali removed some parts from the sprinkler system. Ms. Lin was not present the entire time. When she returned, Mr. Ali asked for \$800. Ms. Lin asked what the charge was for. He said he needed to correct deficiencies relating to the sprinkler system being at an improper height. Ms. Lin phoned B, and B denied that there were any problems with the system. Mr. Ali then tried to negotiate payment from \$800 to \$300. Ms. Lin says she refused based on B's comments, her observation that the sprinklers worked last year, and that Mr. Ali did not mention any fee before visiting. Mr. Ali said if Ms. Lin did not pay him, there would be "a huge problem". After Mr. Ali left, Ms. Lin phoned the police. There is no indication anything came of that call.
15. B provided an August 18, 2020 statement. He verified that Ms. Lin called him on February 3, 2020 and he advised that, aside from turning off the valve, no additional work was necessary.
16. From the above, I find it likely that the parties never reached an agreement on the work of raising the system. I reach this conclusion because the text messages are vague on what work would be done and there are no other documents to show an agreement. I also accept that Ms. Lin was surprised by the work and additional fees because she phoned B to confirm whether any work needed to be done.
17. However, this dispute is about Ms. Lin's allegation that Mr. Ali damaged or sabotaged the sprinklers during the February 2020 visit. This is the key issue that I will address below.

18. In late July 2020 Ms. Lin attempted to turn on the sprinklers but they did not work. B recommended she use another person, M, to look at the system. M said in a July 29, 2020 email that on July 27, 2020, he attended Ms. Lin's house and found the main water valve had been shut off. When he "charged" the system, water started to leak out of an adjacent valve box. I infer this box houses valve components. M returned the next day with more workers to expose the valve box from the dirt. M identified 3 problems. He said that 1) the joints in the pipes were not glued and all the joints were coming apart, 2) the controller wires had been entirely cut, and 3) a valve manifold had been removed.
19. M said he replaced the valve manifold and rewired the controller to repair the system. Presumably M also fixed the pipes, though he did not say so. M attached photos showing the pipes, cut wires, and valve box.

***Did Mr. Ali damage Ms. Lin's sprinkler system, and if so, what remedies are appropriate?***

20. When an issue is outside the knowledge of an ordinary person, expert evidence is generally required. See *Bergen v. Guliker*, 2015 BCCA 283. As the sprinkler system is specialized equipment, I find that the cause of why the sprinkler system failed to work in July 2020 requires expert evidence.
21. Based on the evidence before me, I am not satisfied that Mr. Ali caused the damage and issues identified in M's email. M did not provide any opinion on their cause. In other words, he did not say whether Mr. Ali caused the damage, either through inadvertence or sabotage. He did not say whether the sprinklers could have worked before Mr. Ali worked on them, as Ms. Lin says they did. M also did not comment on any of Mr. Ali's work. He did not say if raising the sprinkler system was necessary or if by doing so Mr. Ali could cause the observed damage.
22. Ms. Lin says that M advised her on the phone that Mr. Ali damaged the sprinkler system. I find this to be hearsay. While hearsay evidence is admissible in CRT

proceedings, I do not place any significant weight upon it here. This is because M had the opportunity to provide this opinion in his July 2020 email but did not do so.

23. Ms. Lin also provided text messages from M to her. M said that Mr. Ali is a “fraud” without further explanation. While I acknowledge this evidence, I do not find it detailed enough to show that Mr. Ali caused the damage complained of.
24. Further, under CRT rule 8.3(2), an expert must state their qualifications in any written expert opinion evidence. M did not provide his qualifications. I therefore do not know what M’s education, training, or experience are in this field.
25. In his August 2020 statement, B also says that Mr. Ali previously damaged his clients’ sprinkler systems in the same manner when Mr. Ali worked for him. While I find this evidence relevant, B did not elaborate. I am therefore unable to place any significant weight on B’s statement.
26. For those reasons, I dismiss Ms. Lin’s claim for \$840 in compensation for sprinkler system repairs.
27. As noted above, Ms. Lin also claims \$3,000 for suffering and time spent on “this issue”. I find these claims are unsupported by any evidence. For example, there is no indication that Ms. Lin spent money on counselling or missed work. She did not say how much time she spent on dealing with the sprinkler system issues or dispute resolution process. Ms. Lin also failed to prove her main claim. For all these reasons, I dismiss this claim.
28. 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. Mr. Ali is the successful party. As he did not pay any CRT fees or claim any dispute-related expenses, I do not order reimbursement for any parties.

## **ORDER**

29. I dismiss Ms. Lin's claims and this dispute.

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David Jiang, Tribunal Member