



Civil Resolution Tribunal

Date Issued: March 22, 2021

File: SC-2020-000697

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Terezakis v. Russell (dba Feathers and Fins Outfitters)*, 2021 BCCRT 313

B E T W E E N :

NICHOLAS TEREZAKIS

APPLICANT

A N D :

ROBERT MICHAEL RUSSELL (Doing Business As FEATHERS AND
FINS OUTFITTERS)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about hunting guide services. The applicant, Nicholas Terezakis, hired the respondent, Robert Michael Russell (Doing Business As Feathers and Fins Outfitters), to be his guide for a goose hunt.

2. Mr. Terezakis says contrary to the agreement Mr. Russell had another guide take Mr. Russell's place. Mr. Terezakis also says the replacement guide BB told him the season was over and the geese had left, which Mr. Russell denies. Mr. Terezakis claims a \$4,620 refund.
3. Mr. Russell says Mr. Terezakis agreed to the replacement guide. Mr. Russell also says Mr. Terezakis is responsible for his lack of success on the hunt as he failed to follow the qualified guide's instructions.
4. The parties are each self-represented.

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. Here, I find that I am able to assess and weigh the documentary evidence and submissions before me.
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. Russell fulfilled the parties' hunting guide contract, and if not, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Terezakis must prove his claims on a balance of probabilities. I have read all the evidence and submissions before me, but refer only to what I find relevant to provide context for my decision.
11. In December 2018, the hunting shoot, for 3 hunters, was scheduled for October 28 – 30, 2019. There is a December 17, 2018 invoice addressed to Mr. Terezakis. The invoice details \$400 for per hunter, for \$3,780 total. The invoice stated a 50% deposit was payable on booking, with the \$1,890 balance due on the morning of the hunt. On the day of the hunt, Mr. Terezakis brought a 4th hunter. It is not clear what Mr. Terezakis actually paid for the 4th hunter, but Mr. Terezakis claims a total of \$4,620. Nothing turns on the exact payment, given my conclusion below.
12. Mr. Russell admits he was unable to attend the shoot with Mr. Terezakis and that he sent a replacement guide, BB, in his place. Mr. Terezakis says the contract required Mr. Russell to be the guide, not BB, and by sending BB Mr. Russell breached the guide contract. In contrast, Mr. Russell says Mr. Terezakis agreed to BB's attendance before the shoot.
13. There is no written contract in evidence. Mr. Terezakis submitted an October 15, 2019 email from Mr. Russell who wrote that he was going to have a friend (BB) guide Mr. Terezakis along with Mr. Russell's son. There is no indication Mr. Terezakis objected or responded at all, and the hunt proceeded as scheduled.
14. On the evidence before me, I find Mr. Russell did not breach the parties' agreement by having BB attend in his place as the guide. While BB admits he is not a professional guide, he undisputedly had hunted ducks and geese for many years. I find there is no evidence the guide contract required that Mr. Russell personally be

the guide or that a “professional” guide be sent. As noted, Mr. Terezakis never objected to Mr. Russell sending a replacement guide, even though he was given notice of it almost 2 weeks before the hunt.

15. I turn then to what happened on the hunt.
16. Mr. Russell submitted a November 6, 2019 statement from BB. Mr. Terezakis submits BB’s account is “fairly accurate”. BB wrote that there were birds and that the clients “got fair shots” but were “jumping the gun and not waiting for me to ‘call’ the shots”. This occurred on the first and second days of the shoot. BB wrote they discussed the fact that birds were starting to fly south and that theirs was the last hunting group for the season. I find this is consistent with Mr. Terezakis’ email before the hunt, in which he asked if there would still be birds for his late October hunt.
17. Mr. Russell also submitted a statement from his son who was on the shoot, and it is consistent with BB’s statement. It is undisputed Mr. Terezakis’ group shot 16 geese. Mr. Terezakis did not submit any statements from the others in his hunting group. I find there were birds, although perhaps not as many as there might have been earlier in the season.
18. On the evidence before me, I find a hunt for geese does not necessarily guarantee a certain number of available birds. There are variables affecting whether more or less birds will be shot. For example, a shooter’s skill and whether the birds simply choose to land and fly elsewhere. While it was admittedly the end of the hunting season, I am not prepared to conclude that the “birds were gone”, as Mr. Terezakis alleges. I find Mr. Terezakis has not proved that Mr. Russell failed to fulfill the parties’ contract. I find the contract was to provide guiding services, which Mr. Russell did. The contract was not to provide a guaranteed number of birds.
19. Next, the evidence shows Mr. Terezakis wanted Mr. Russell’s business to provide cleaning services for the birds, and that in the past Mr. Russell had agreed to do this for other clients. I find there was no agreement for Mr. Russell to clean the birds and his invoice did not bill for cleaning.

20. 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. Terezakis was unsuccessful so I dismiss his claim for reimbursement of CRT fees. Mr. Russell paid \$50 in CRT fees to set aside a default decision issued earlier and later cancelled. While Mr. Russell paid \$50 in CRT fees to cancel a default decision, he does not claim reimbursement, so I make no order for fees. No dispute-related expenses were claimed.

ORDER

21. I order Mr. Terezakis' claims and this dispute dismissed.

Shelley Lopez, Vice Chair