



Civil Resolution Tribunal

Date Issued: April 12, 2021

File: SC-2020-006380

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Coast Wide Flood & Fire Restorations Ltd. v. Smith*, 2021 BCCRT 378

B E T W E E N :

COAST WIDE FLOOD & FIRE RESTORATIONS LTD.

APPLICANT

A N D :

JILLIANNE SMITH and CASTLE ROCK KENNELS

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. This dispute is about payment for restoration work that was not covered under a homeowner's insurance.

2. The applicant, Coast Wide Flood & Fire Restorations Ltd. (Coast), provided water damage and remediation services to the respondent, Jillianne Smith, at her home.
3. Ms. Smith owns or co-owns the other respondent, Castle Rock Kennels, which is a dog kennel business she runs from her home.
4. In its Dispute Notice, Coast sought payment of its outstanding \$1,776.63 invoice \$1,776.63, plus contractual interest. The invoice included a \$500 deductible and \$1,276.63 for plumbing repair costs. Ms. Smith then paid the \$500 deductible. Coast now seeks payment of the \$1,276.63 balance.
5. Ms. Smith says she should not have to pay the balance of the invoice because she did not agree to pay for the work, the invoice is inflated, and Coast failed to provide a complete breakdown of the charges.
6. Coast is represented by a principal or employee. Ms. Smith represents herself and Castle Rock Kennels. Ms. Smith's insurer is not a party to this dispute.

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. 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.

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.

Preliminary issue – evidence

11. Coast's evidence was submitted in a format that I was unable to access. CRT staff asked Coast to resubmit its evidence in a different format and extended the deadline for Coast to provide that evidence. In case the respondents were unable to access Coast's documents, they were advised of the new format and given an opportunity to make additional submissions. The respondents did not make additional submissions.

ISSUE

12. The issue in this dispute is whether the respondents must pay some or all of Coast's outstanding invoice.

EVIDENCE AND ANALYSIS

13. As the applicant in this civil dispute, Coast must prove its claims on a balance of probabilities. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
14. At some point in 2019, Ms. Smith experienced a water leak in her home. Ms. Smith made an insurance claim under her homeowner's policy. Coast provided the initial emergency response service.
15. On August 1, 2019, the insurance adjuster MG emailed Ms. Smith and Coast, attaching a "Scope of Repairs" document. According to the scope of repairs, Coast's

work included specific repairs to the grooming room, hallway, bathroom and bedroom. Any damage extending beyond that scope needed to be approved by the adjuster and homeowner before commencing work.

16. In August and September 2019, Coast provided water damage remediation services in Ms. Smith's home. The documentary evidence confirms that Ms. Smith's insurer paid Coast for all work except the outstanding plumbing repair costs that are the subject of this dispute.
17. According to a March 18, 2020 email from MG, the insurer decided to provide coverage solely for Ms. Smith's personal property and private use of her home and not for her business, which I infer was Castle Rock Kennels. The insurer agreed to cover the cost of moving and reconnecting the grooming room's washer and dryer because they were also used for personal laundry, but did not agree to cover costs associated with the dog bath, which the insurer considered a business item. MG's email confirmed that Coast would send Ms. Smith an invoice for the dog bath work.
18. On March 5, 2020 Coast invoiced Ms. Smith \$1,276.63 for the dog bath work, plus \$500 for the insurance deductible. As noted above, Ms. Smith paid the deductible on November 1, 2020.
19. It is undisputed that Coast subcontracted a plumber, Renovation West Mechanical (RWM), to do the plumbing work related to the dog bath. Coast's disputed invoice was based on 2 RWM invoices.
20. RWM's August 27, 2019 invoice for \$827.61 was to disconnect and reconnect plumbing for the dog tub.
21. RWM's September 11, 2019 invoice was to move the dog tub 8 inches to the right, for \$236.25. RWM's invoices total less than the \$1,276.63 that Coast invoiced Ms. Smith, an issue I return to below.
22. Ms. Smith raises a number of reasons why she should not have to pay Coast's invoice. First, she says any work that was not covered by insurance needed to be

agreed upon in advance, and this did not happen. She says had she known she was going to have to pay for the work, she would have used her own plumber or done the work herself.

23. For the following reasons, I find Ms. Smith agreed to the dog bath work. First, by signing the Work Authorization Form (WAF), Ms. Smith agreed to pay “the actual cost of the said work” if not covered by insurance. The “said work” can only be understood to be a reference to the work described in the second paragraph, which says the customer authorizes Coast to proceed with “its recommended procedures” including contents manipulation, drying of contents and structure, rebuild and repairs to restore the structure, and securing the property from further damage.
24. Second, based on Coast’s September 14, 2019 rebuild invoice, I find that the grooming room’s plywood and flooring had to be removed, and new plywood and flooring reinstalled. I find that Ms. Smith likely would have been aware that this meant the dog bath had to be moved, and therefore disconnected and reconnected from the plumbing. Based on MG’s emails and the Scope of Work document that did not include the dog bath work, I find Ms. Smith knew or should have known that the dog bath removal and reinstallation was not going to be covered by the insurer. So, I find she knew or should have known she would be responsible for the cost.
25. Finally, I find that Ms. Smith instructed Coast to reposition the bath. Coast says Ms. Smith initially requested it to be placed in one position and later asked for it to be moved because one of her employees did not like its position. Ms. Smith did not dispute this. Coast acknowledges that repositioning the tub did not take the plumber long, but says there is a minimum charge, which is noted on the invoice.
26. Ms. Smith also asserts that Coast’s restoration work was unsatisfactory, took too long, and was plagued with problems. I find these assertions conflict with Ms. Smith’s signed certificate of completion, in which she wrote that she was “very happy” with Coast’s work and that the staff were “outstanding”. In any event, Ms. Smith does not express any concerns about the dog bath plumbing work that is at issue in this dispute.

27. Ms. Smith says she was not given a complete breakdown of RWM's invoices. I agree that RWM's invoices lack details such as the time it took to complete the work. However, I find they contain enough information to verify the services provided and the costs. Moreover, the lack of detail in the invoices does not negate her obligation to pay for the work.
28. Finally, Ms. Smith argues that the plumbing charges are too high for the work. She relies on the opinion of "Kevin", who identifies himself in emails as her husband. In an October 15, 2020 email, Kevin says he is a journeyman pipefitter, that Coast's cost was too high and that he could have done the work himself. I do not consider Kevin's email to be expert opinion evidence under the CRT's rules because he does not explain how he is qualified to provide an opinion on plumbing work and costs as a journeyman pipefitter. Moreover, Kevin is not a disinterested party. There is no evidence from an independent professional to support Ms. Smith's assertion that the charges were unreasonable.
29. As noted above, Coast's invoice to Ms. Smith was higher than the cost of the RWM invoices. Coast added a 10% profit markup and a 10% overhead markup. Ms. Smith did not specifically take issue with these markups. The WAF says Ms. Smith agreed to "pay the actual cost" of Coast's services. The parties made no submissions about the meaning of this phrase.
30. I find a homeowner in Ms. Smith's position would likely have understood that the "actual cost" was the cost that Coast charged, including reasonable markups for profit and overhead where the work was subcontracted. Coast is a business and I find reasonable people understand that businesses seek to generate profit. I find the actual cost of Coast's services that Ms. Smith agreed to pay includes a reasonable profit and overhead charge, and I find a total of 20%, while high, is not unreasonable. Therefore, I find Ms. Smith owes Coast the claimed \$1,276.63.
31. I note that the signed WAF is between Coast and Ms. Smith. Castle Rock Kennels is not a party to the WAF or any other agreement. Coast does not explain why it brought a claim against Castle Rock Kennels or why it believes Castle Rock Kennels is

responsible for the alleged debt. I therefore dismiss the claim against Castle Rock Kennels.

Contractual interest and CRT fees

32. Coast claims 24% annual interest. The WAF says “net 30, 2% interest on overdue accounts.” The WAF does not state whether the interest rate is annual or monthly. Applying the principle of *contra proferentum* (ambiguity is resolved in favour of the party that did not draft the contract), I find the interest rate in the contract is annual.
33. Coast is entitled to pre-judgment interest on the outstanding \$1,776.63 from April 5, 2020, which is 30 days after the invoice, until November 1, 2020, when Ms. Smith paid the \$500 deductible. Coast is entitled to interest on the balance, \$1,276.63 from November 2, 2020 until the date of this decision. Together, this equals \$31.87.
34. 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. I find Coast is entitled to reimbursement of \$125 in CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

35. Within 30 days of the date of this order, I order Ms. Smith to pay Coast a total of \$1,433.50, broken down as follows:
 - a. \$1,276.63 in debt for the invoice,
 - b. \$31.87 in pre-judgment contractual interest, and
 - c. \$125.00 CRT fees.
36. Coast is entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.

37. I dismiss the claims against Castle Rock Kennels.
38. 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.
39. 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.

Micah Carmody, Tribunal Member