



Civil Resolution Tribunal

Date Issued: April 16, 2021

File: SC-2020-009324

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gorguet v. Vissare Media Inc.*, 2021 BCCRT 394

B E T W E E N :

JULIEN GORGUET

APPLICANT

A N D :

VISSARE MEDIA INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This is a dispute about payment for videography services. The applicant, Julien Gorguet, says the respondent, Vissare Media Inc. (Vissare), has failed to pay him for videography services that he provided to Vissare.
2. Mr. Gorguet seeks an order that Vissare pay him \$925 for the videography services.
3. Vissare says it paid Mr. Gorguet \$925 by e-transfer on September 6, 2020 and that Mr. Gorguet has been paid in full.
4. Mr. Gorguet is self-represented. Vissare is represented by Vissare's Managing Director, Harman Aujla.

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. In some respects, both sides to this dispute call into question the credibility, or truthfulness, of the other. However, in the circumstances of this dispute, I find that it is not necessary for me to resolve the credibility issues that the parties raised. 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.

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 Vissare owes Mr. Gorguet \$925 for the videography services or has Vissare has already paid Mr. Gorguet.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Gorguet bears the burden of proving his claim on a balance of probabilities. While I have reviewed all of the parties' submitted evidence and arguments, I have only referenced below what I find is necessary to give context to my decision.
11. It is undisputed that Mr. Gorguet provided videography services to Vissare in August 2020.
12. Mr. Gorguet issued an August 30, 2020 invoice for \$925 to Vissare for those services. The invoice stated that payment could be made by e-transfer to Mr. Gorguet's email address or by cheque.
13. Since it is undisputed that Vissare owed Mr. Gorguet \$925 for the videography services, the onus shifts to Vissare to prove that it has paid this amount to Mr. Gorguet.
14. Vissare says that on September 6, 2020 it sent a \$925 e-transfer to Mr. Gorguet for the August 30, 2020 invoice, to the email address listed on the invoice.

15. Mr. Gorguet does not deny receiving an email notifying him of the September 6, 2020 e-transfer. However, he says that when he went attempted to accept the e-transfer, he received an error message indicating that the e-transfer had already been deposited.
16. On September 13, 2020, Mr. Gorguet messaged Mr. Aujla advising him that he had encountered an issue with the e-transfer. Mr. Aujla then sent Mr. Gorguet a screenshot of the confirmation email Vissare received indicating that the \$925 had been accepted.
17. Vissare has also provided as evidence a screenshot from its online bank account. This screenshot shows that the security question for the e-transfer was answered on September 12, 2020 and that the funds were deposited the same day.
18. Mr. Gorguet and Mr. Aujla exchanged a number of messages about the issue with the e-transfer over the coming weeks. During this time, Mr. Gorguet and Mr. Aujla made inquiries with the parties' respective banks to figure out what happened to the \$925.
19. On October 28, 2020, Mr. Aujla informed Mr. Gorguet that he had spoken with Vissare's bank and the bank had started a fraud report. Mr. Aujla told Mr. Gorguet that the bank had found that the \$925 had been deposited into an account with Royal Bank of Canada (RBC) but that they did not know the account number.
20. Mr. Aujla and Mr. Gorguet exchanged further messages over the next few days. On November 4, 2020, Mr. Aujla told Mr. Gorguet that Vissare's bank wanted to know if anyone in his family had an account with RBC or access to his email account. Mr. Gorguet told Mr. Aujla that neither he nor any of his family members use RBC for their banking needs.
21. Mr. Gorguet says that he only banks with Scotiabank and that he has not received the \$925 payment for the videography services provided to Vissare. Mr. Gorguet has provided a copy of his bank account statement for the period of August 27, 2020 to September 26, 2020 which shows no deposits for \$925.

22. On November 20, 2020, Mr. Gorguet messaged Mr. Aujla saying that he completed his services months ago and would like to be paid for them. He asked that Vissare pay him the amount owed by cheque or by other means of Mr. Aujla's choosing.
23. Mr. Aujla responded the same day saying that he was in contact with Vissare's bank and hopeful that they would "figure it out soon." He went on to say that as soon as the money comes back into Vissare's account, he would be happy to transfer it back to Mr. Gorguet.
24. On December 2, 2020, Mr. Gorguet sent a letter to Mr. Aujla demanding that Vissare pay him the \$925. Mr. Aujla responded, thanking Mr. Gorguet for the letter, but said that it does not make sense for Vissare to pay Mr. Gorguet since Vissare has confirmation that the \$925 was deposited on September 12, 2020.
25. Vissare argues that it has satisfied its obligation to pay Mr. Gorguet by sending the e-transfer for \$925 to the email address indicated on the invoice.
26. I find that Vissare has failed to show that Mr. Gorguet has been paid for the videography services. My reasons follow.
27. The evidence shows that Vissare sent an e-transfer to Mr. Gorguet and that the e-transfer was accepted on September 12, 2020. However, the evidence does not show who accepted the e-transfer.
28. Vissare has not argued, and the evidence does not show, that Mr. Gorguet has actually received the \$925 payment. The exchange of messages between Mr. Aujla and Mr. Gorguet show no indication that Mr. Aujla believes that Mr. Gorguet has received the payment.
29. Both parties have made submissions or submitted evidence about whether Mr. Gorguet's email may have been hacked and the strength of the security question that was required to be answered to deposit the funds.
30. I find that it is unnecessary for me to make a finding about the strength of the security question and whether or not Mr. Gorguet's email address had been compromised.

Such a finding would not change the fact that Mr. Gorguet has not received payment for the videography services that he provided to Vissare. Vissare had agreed to e-transfer as a method for issuing payment and remained responsible for ensuring that Mr. Gorguet received the payment.

31. In short, I find that Vissare owes Mr. Gorguet \$925.
32. The *Court Order Interest Act* applies to the CRT. Mr. Gorguet is entitled to pre-judgment interest on the \$925 from September 30, 2020, which I find is the date by which Vissare was required to pay the invoice, to the date of this decision. This equals \$2.26.
33. 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 Mr. Gorguet is entitled to reimbursement of \$125 in CRT fees. Mr. Gorguet did not claim dispute-related expenses.

ORDERS

34. Within 30 days of the date of this order, I order Vissare to pay Mr. Gorguet a total of \$1,052.26, broken down as follows:
 - a. \$925 in debt as payment for the videography services,
 - b. \$2.26 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
35. Mr. Gorguet is entitled to post-judgment interest, as applicable.
36. 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.

37. 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.

Nav Shukla, Tribunal Member