



Civil Resolution Tribunal

Date Issued: April 27, 2021

File: SC-2020-007333

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Takada Holdings Corp. v. Erskine*, 2021 BCCRT 433

B E T W E E N :

TAKADA HOLDINGS CORP.

APPLICANT

A N D :

BRENDA-LEE ERSKINE and LUKE ERSKINE

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This is a dispute about unpaid services. The applicant, Takada Holdings Corp., operates as Budget Blinds. Budget Blinds says the respondents, Brenda-Lee Erskine

and Luke Erskine, hired it to supply and install blinds, but that it has not received full payment.

2. Budget Blinds claims that the respondents still owe it \$2,213.23 for the blinds. Ms. Erskine says that the blinds are defective and that she will pay the remaining amount owing when they are fixed.
3. The respondent, Luke Erskine, did not file a Dispute Response, which I discuss in further detail below.
4. Budget Blinds is represented by its owner, David Anderson. Ms. Erskine is 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 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 the respondents owe Budget Blinds \$2,213.23 for the blinds, or whether they owe less than that because the blinds are defective.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Budget Blinds, as the applicant, must prove its claims on a balance of probabilities. Ms. Erskine filed a Dispute Response and made submissions but did not submit any evidence, despite being given an opportunity to do so. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. As mentioned above, the CRT served Luke Erskine by regular mail at the address provided by Budget Blinds, which is the same address as Ms. Erskine. Under the CRT's rules, the Dispute Notice was deemed served on Luke Erskine on October 9, 2020. Luke Erskine did not file a Dispute Response within 14 days, as required under the CRT's rules.
12. Given Luke Erskine's failure to file a Dispute Response, they are in default. However, despite this default status, I find they are not responsible for the amount claimed by Budget Blinds. The evidence, discussed further below, does not prove that Luke Erskine was a party to any agreement with Budget Blinds for the supply and installation of the blinds. All of Budget Blinds' communication appears to have been with Ms. Erskine. I therefore dismiss the claim against Luke Erskine and address Budget Blinds' claim against Ms. Erskine below.
13. The parties agree Ms. Erskine hired Budget Blinds to supply and install window coverings. On April 20, 2020, Budget Blinds emailed Ms. Erskine two quotes. Ms.

Erskine replied on April 23, 2020 agreeing to one of the quotes and said that she would provide a 50% deposit.

14. Budget Blinds has provided as evidence an invoice for \$4,425.23 that sets out the details of Ms. Erskine's order. From the emails in evidence, it is unclear if this particular document was sent to Ms. Erskine. However, it is undisputed that Ms. Erskine paid a 50% deposit of \$2,212.00 before the blinds were installed. This is the amount listed on the invoice for the deposit. It is also undisputed that Budget Blinds supplied and installed the blinds for Ms. Erskine on June 10, 2020.
15. The emails show that Budget Blinds asked Ms. Erskine to pay the remaining \$2,213.23 a number of times after the blinds were installed. In response, Ms. Erskine did not deny that this amount remained owing but said there was an issue with one of the blinds that needed to be fixed. Similarly, in her submissions, Ms. Erskine does not deny that she agreed to pay a total of \$4,425.23 for the blinds and that \$2,213.23 remains owing.
16. Therefore, I find that Ms. Erskine agreed to pay a total of \$4,425.23 for the blinds and that \$2,213.23 has not been paid.
17. Ms. Erskine submits that Budget Blinds has not fulfilled the contract on its end because one of the blinds installed is defective. When defective work is alleged, the burden of proof is on the party asserting the defects (see *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 91 at paragraph 124). However, Ms. Erskine did not provide any evidence to show that the blinds installed are defective.
18. In any event, the emails show that Budget Blinds made numerous attempts to arrange a time with Ms. Erskine to have its service person attend to fix the problem. Ms. Erskine did not respond to most of these requests or responded saying that the proposed times did not work.
19. On one occasion, the parties were able to agree on a time. Ms. Erskine submits that the service person was a "no show" to this appointment. Budget Blinds says that the service person was 7 minutes late and no one was home when they arrived. Ms.

Erskine did not agree to any of the appointment times proposed by Budget Blinds after this date.

20. I find that Ms. Erskine has failed to prove that the blinds installed are defective. I also find Budget Blinds made reasonable attempts to address Ms. Erskine's concerns.
21. Therefore, I find that Ms. Erskine owes Budget Blinds \$2,213.23.
22. The *Court Order Interest Act* applies to the CRT. Budget Blinds is entitled to pre-judgment interest on the \$2,213.23 from June 10, 2020 to the date of this decision. This equals \$10.67.
23. 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 Budget Blinds is entitled to reimbursement of \$125 in CRT fees. Budget Blinds did not claim dispute-related expenses.

ORDERS

24. Within 14 days of the date of this order, I order Ms. Erskine to pay Budget Blinds a total of \$2,348.90, broken down as follows:
 - a. \$2,213.23 in debt,
 - b. \$10.67 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
25. Budget Blinds is entitled to post-judgment interest, as applicable.
26. I dismiss Budget Blinds' claim against Luke Erskine.
27. 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.

28. 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.
29. A party in default (here, Luke Erskine) has no right to make a Notice of Objection, as set out in section 56.1(2.1) of the CRTA.

Nav Shukla, Tribunal Member