



# Civil Resolution Tribunal

Date Issued: May 6, 2021

File: SC-2020-009479

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Freight Plus International v. Brown*, 2021 BCCRT 484

B E T W E E N :

FREIGHT PLUS INTERNATIONAL

**APPLICANT**

A N D :

CHRIS BROWN and STAY WYLD ORGANICS LIMITED

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. The applicant, Freight Plus International (FPI), is a shipping company. FPI says it was hired to ship equipment from Bohemia, New York to Pemberton, British Columbia. FPI says the respondents, Chris Brown and Stay Wyld Organics Limited (Stay Wyld), purchased the equipment and are responsible for the shipping costs. FPI says it

delivered the equipment undamaged and claims \$1,995 for its unpaid invoice, plus contractual interest.

2. Mr. Brown says the seller of the equipment hired FPI and was responsible for the shipping costs. Mr. Brown also says the equipment was damaged during shipping and he should be reimbursed for the damaged equipment. Stay Wyld did not file a Dispute Response, which I will address further below.
3. FPI is self-represented. Mr. Brown represents himself and Stay Wyld.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.

7. 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.
8. Stay Wyld did not file a Dispute Response in this proceeding. Normally, this would result in Stay Wyld being found in default, with liability assumed against it. For the following reasons, I decline to note Stay Wyld in default.
9. In the Dispute Notice, the service addresses for Mr. Brown and Stay Wyld are the same. As noted, Mr. Brown filed a Dispute Response but Stay Wyld did not. It is undisputed that Mr. Brown is the principal of Stay Wyld. When CRT staff sought to advise Mr. Brown about the risks of Stay Wyld not filing a Dispute Response, Mr. Brown advised that his filed Dispute Response stood for both himself and Stay Wyld. I am satisfied that Mr. Brown intended to participate for both himself and Stay Wyld, and I will proceed to determine this dispute as against Mr. Brown and Stay Wyld on its merits.

## **ISSUES**

10. The issues in this dispute are:
  - a. Whether Stay Wyld or Mr. Brown owes FPI the claimed \$1,995 for shipping services?
  - b. Whether Stay Wyld or Mr. Brown are entitled to any set-off against the amount owed to FPI for damaged property?

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, as the applicant FPI must prove its claims on a balance of probabilities. Mr. Brown provided 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.

12. At the outset I note that while Mr. Brown and Stay Wyld are named respondents in this dispute, FPI has not provided any evidence or submissions that Mr. Brown acted in his personal capacity rather than in his capacity as the principal of Stay Wyld, or why he should be held personally responsible. So, I dismiss FPI's claim against Mr. Brown personally.

***Does Stay Wyld owe FPI \$1,995 for shipping services?***

13. It is undisputed that FPI shipped the equipment to Stay Wyld. FPI says it was hired by the seller and the purchaser of the equipment, WOHL Associates Inc. (WOHL) and Stay Wyld, respectively. WOHL is not a party to this dispute. FPI says Stay Wyld was responsible for paying FPI's invoice. Stay Wyld disputes this and says WOHL contracted with FPI and was responsible for payment. I disagree, as discussed below.
14. The law of agency applies when one party (the principal) gives authority to another party (the agent) to enter contracts with third parties on its behalf. So long as the agent discloses that they are acting as an agent for the principal, the agent will not generally be liable under a contract they make between the principal and the third party. The issue here is whether WOHL was Stay Wyld's agent. In particular, whether WOHL had actual or apparent authority to enter into the shipping contract on Stay Wyld's behalf, such that Stay Wyld should be held responsible for paying FPI's invoice.
15. FPI submitted emails between Stay Wyld and WOHL. The emails confirm that Stay Wyld agreed to FPI's quoted price of \$1,995 for shipping costs and instructed WOHL to have the equipment picked up by FPI as soon as possible. Based on the above emails, I find that WOHL acted with either actual or presumed authority and entered into the shipping contract on Stay Wyld's behalf. I find this means Stay Wyld is liable for FPI's invoice for the shipping costs. This is further supported by the emails in evidence between WOHL and FPI. The emails confirm WOHL directed FPI to contact Stay Wyld for payment. FPI's bill of lading for the equipment notes that the freight charge will be collected, rather than prepaid. Finally, FPI's invoice is addressed to Stay Wyld, and was issued on September 11, 2020, prior to delivery of the equipment.

16. As noted above, the respondents did not submit any evidence in this dispute. I find Mr. Brown's submission that WOHL was responsible for paying FPI's invoice does not accord with the available evidence, discussed above. On balance, I find FPI has met its burden of proving Stay Wyld is responsible for paying FPI's invoice. I find Stay Wyld owes FPI \$1,995 for its unpaid invoice.

***Is Stay Wyld entitled to a set-off?***

17. As noted above, Stay Wyld also says that the equipment arrived damaged and claims reimbursement for the damage. Stay Wyld did not file a counterclaim so I infer Stay Wild seeks a set-off of the amount owing on FPI's invoice. The respondents did not submit any evidence in support of the alleged equipment damage, so I find Stay Wyld is not entitled to a set-off.

***Interest, CRT fees and dispute-related expenses***

18. In its Dispute Notice, FPI claims contractual interest at 2.00% per year. Although FPI invoice states that it would charge 2% monthly interest on overdue amounts, I do not find that Stay Wyld agreed to this. There is no shipping contract in evidence and there is no other evidence that shows Stay Wyld agreed to pay this rate of interest or any rate. Contractual interest must be agreed to, and cannot unilaterally be imposed in a later invoice. I dismiss the contractual interest claim.

19. As the parties did not agree on contractual interest, the *Court Order Interest Act* applies. FPI is entitled to pre-judgment interest on its unpaid invoice from October 11, 2020, 30 days from the date of its invoice to the date of this decision, which I find is reasonable in the circumstances. This equals \$5.10.

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. I see no reason in this case not to follow that general rule. I find FPI is entitled to reimbursement of \$150 in CRT fees. FPI did not claim any dispute-related expenses, and so I award none.

## ORDERS

21. Within 14 days of the date of this order, I order Stay Wyld to pay FPI a total of \$2,150.10, broken down as follows:
  - a. \$1,995 in debt for FPI's shipping services,
  - b. \$5.10 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$150 in CRT fees.
22. FPI is entitled to post-judgment interest, as applicable.
23. I dismiss FPI's claims against Mr. Brown.
24. 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.

25. 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.

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Leah Volkens, Tribunal Member