



Civil Resolution Tribunal

Date Issued: June 4, 2021

File: SC-2020-008759

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Nash Glass Ltd. v. Lazos*, 2021 BCCRT 610

BETWEEN:

NASH GLASS LTD.

APPLICANT

AND:

KANARIS DEMETRE LAZOS

RESPONDENT

AND:

NASH GLASS LTD.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about the installation of glass shower doors. The applicant and respondent by counterclaim, Nash Glass Ltd. (Nash), was hired by the respondent and the applicant by counterclaim, Kanaris Demetre Lazos, to install glass shower doors at a house that Mr. Lazos was renovating. Nash claims \$1,388.10 for unpaid work.
2. Mr. Lazos denies Nash's claim. He says the parties agreed to a contract price of \$600. Mr. Lazos counterclaims against Nash, saying that Nash delayed the project by supplying the wrong sized glass multiple times. Mr. Lazos says that Nash's alleged delays caused \$1,540 in expenses. Nash denies the counterclaim and says that it did not delay finishing the project or cause any losses.
3. Nash is represented by Nashwan Majeed, a director. Mr. Lazos is self-represented.

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. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Though I found that some aspects of the parties' submissions called each other's credibility into question, I find I am properly able to assess and weigh the documentary evidence and submissions before me without an oral hearing. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always necessary when credibility is in issue.

Further, bearing in mind the CRT's mandate of proportional and speedy dispute resolution, I decided I can fairly hear this dispute through written submissions.

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.

ISSUES

8. The issues in this dispute are:
 - a. Does Mr. Lazos owe \$1,388.10 for unpaid shower door installation work?
 - b. Does Nash owe Mr. Lazos \$1,540 in damages for allegedly delaying the project?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant, Nash, must prove its claim on a balance of probabilities. Mr. Lazos has the same burden on his counterclaim. 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. I note that Mr. Lazos has not submitted any evidence in response to Nash's claim or in support of his counterclaim, though he had the opportunity to do so.

Does Mr. Lazos owe a debt of \$1,388.10 for unpaid shower door installation work?

10. It is undisputed that Mr. Lazos hired Nash to install the shower doors. Neither party provided a written contract. Nash says it performed the work in February 2020 and

Mr. Lazos says the work was done in March 2020. However, I find that nothing in my decision turns on this difference.

11. It is undisputed that Nash sent Mr. Lazos an invoice for \$1,388.10 on June 15, 2020 after completing the work. The invoice said payment was due on July 15, 2020. It is undisputed that the invoice is unpaid.
12. Nash does not explain how it calculated the \$1,388.10 invoice price. Mr. Lazos says Nash quoted \$600 plus tax, which Nash denies. Mr. Lazos says that he would not have agreed to pay \$1,388.10 because that price is excessive. Mr. Lazos says the shower glass parts cost less than \$600 at stores. However, Mr. Lazos did not provide any supporting price listings for comparable parts. Further, neither party provided any supporting documents, such as emails or texts, showing the parties' contract price expectations when they entered the contract.
13. Nash argues that Mr. Lazos acknowledged the invoice price in a recorded conversation and in multiple text messages. Nash provided an audio recording of a conversation it says it had with Mr. Lazos on August 31, 2020. Since Mr. Lazos does not dispute this recording, I accept that it is an accurate recording of the conversation. In the recording, an individual that I infer is Mr. Lazos says that he was going to "get a loan and pay everyone." Based on the recording, I find that Mr. Lazos acknowledged that he owed Nash a debt for unpaid work. However, I do not find this audio recording helpful because I find that Mr. Lazos did not acknowledge the specific amount he owed in this recording.
14. Nash also argues that Mr. Lazos acknowledged owing the invoice amount in his text messages. Nash sent Mr. Lazos a September 1, 2020 email and a September 6, 2020 text message demanding payment of the \$1,388.10 invoice balance. Nash texted Mr. Lazos again on an unspecified date in September 2020 saying that it has not received any payment yet. In response, Mr. Lazos texted that he will pay Nash but he has financial difficulties. On September 16, 2020, Nash texted asking Mr. Lazos again demanding payment of the balance. Mr. Lazos responded saying that

he would not let Nash down but he needed a few more days. None of Mr. Lazos' text responses disputed the amount owed or said that the contract price was only \$600.

15. I find that the emails and texts show that Nash repeatedly demanded payment of its \$1,388.10 invoice and that Mr. Lazos promised to pay Nash. In doing so, I find that Mr. Lazos promised to pay Nash the invoiced amount. I find that Mr. Lazos' promise to pay the \$1,388.10 invoice in September 2020 is inconsistent with his current assertion that the contract price was \$600. Mr. Lazos does not explain why he promised to pay \$1,388.10 if the contract price was only \$600. In the absence of an explanation, I find that it is more likely that the agreed contract price was \$1,388.10. So, I find that Mr. Lazos agreed to pay Nash \$1,388.10 for the work.
16. Since it is undisputed that Nash has installed the shower doors, I find that Mr. Lazos owes Nash \$1,388.10 under the contract for unpaid work.

Does Nash owe Mr. Lazos damages for delaying the project?

17. Mr. Lazos counterclaims that Nash took too long to finish the work. Mr. Lazos says that he needed to go to the jobsite, with an assistant, to help Nash install the glass multiple times. Mr. Lazos says that Nash brought the wrong sized glass 4 times, forcing Mr. Lazos to make extra trips to the jobsite. Mr. Lazos says he paid his assistant \$160 per day and he said his time was worth \$200 per day. Mr. Lazos claims reimbursement of \$1,440 for labour costs and \$100 for travel expenses.
18. I find that the parties' contract had an implied term that Nash would perform its work within a reasonable period of time. So, did Nash breach the contract by failing to complete the work in a reasonable time?
19. Nash says it finished the work without delay. Although Mr. Lazos says that Nash took over a month to install the shower glass, Nash says it finished the work in a single day. Nash admits that it brought the wrong sized glass, but Nash says it replaced the glass itself. Further, Nash says that its work did not cause Mr. Lazos to incur any expenses because neither Mr. Lazos or his assistant helped with installation. Nash says that no one was present when it performed the work.

20. As stated above, Mr. Lazos has not provided any documents supporting his counterclaim, and in particular no statement from his alleged assistant. I find Nash's submission that it completed the work in a single day without Mr. Lazos' assistance equally as likely as Mr. Lazos' claim that Nash repeatedly delayed the project by bringing the wrong glass. In the absence of supporting evidence, I find that Mr. Lazos has failed to satisfy his burden of proving that Nash breached the contract by failing to timely finish its work or that he suffered any resulting expenses.
21. For the above reasons, I dismiss Mr. Lazos' counterclaim and I find that Mr. Lazos owes Nash \$1,388.10 for unpaid work.

Interest and CRT fees

22. The *Court Order Interest Act* (COIA) applies to the CRT. Nash is entitled to pre-judgment interest on the \$1,388.10 from July 15, 2020, the invoiced payment due date, to the date of this decision. This equals \$5.07.
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. Since Nash was successful in its claim, I find that it is entitled to reimbursement of its \$125 in CRT fees. Nash did not claim reimbursement of dispute-related expenses. Since Mr. Lazos was unsuccessful in its counterclaim, I find that it is not entitled to reimbursement of its CRT counterclaim fees.

ORDERS

24. Within 30 days of the date of this order, I order Mr. Lazos to pay Nash a total of \$1,518.17, broken down as follows:
 - a. \$1,388.10 in debt for shower glass installation work,
 - b. \$5.07 in pre-judgment COIA interest, and
 - c. \$125 in CRT fees.

25. Nash is entitled to post-judgment interest, as applicable.
26. 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.
27. 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.

Richard McAndrew, Tribunal Member