



Civil Resolution Tribunal

Date Issued: June 15, 2021

File: SC-2021-001051

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *John Sadler Mechanical Ltd. v. Stokes*, 2021 BCCRT 660

BETWEEN:

JOHN SADLER MECHANICAL LTD.

APPLICANT

AND:

ANDREW STOKES

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about payment for services.
2. The respondent, Andrew Stokes, hired the applicant, John Sadler Mechanical Ltd. (JSM), to remove and replace an oil tank and to service his furnace. JSM says it

completed the work, but that Mr. Stokes refuses to pay JSM's invoice. JSM claims \$1,152.73 for the unpaid invoice.

3. Mr. Stokes says the invoice is excessive for the job done. He says he offered to pay JSM what he thought is reasonable but JSM refused.
4. JSM is represented by its director, John Sadler. Mr. Stokes represents himself.

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 Mr. Stokes must pay JSM for its work and, if so, how much?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this one the applicant, JSM, must prove its claim on a balance of probabilities. I have reviewed all submissions and weighed all the evidence, but I only refer to that necessary to explain and give context to my decision.
11. In September 2020 Mr. Stokes asked JSM to remove an existing oil tank and install a new tank. The parties agreed Mr. Stokes would provide the oil tank and JSM would provide labour and materials. JSM removed and replaced the oil tank around October 13, 2020. On October 26, 2020 JSM returned to service Mr. Stokes' furnace. None of this is disputed.
12. Although JSM says it quoted \$3,500 for the entire job, including supplying a new oil tank, Mr. Stokes denies this. Given this, and that JSM undisputedly did not supply a new oil tank, I find the parties did not agree to a \$3,500 overall cost. There is no indication that the parties agreed on an hourly rate or overall price. However, I find it was an implied term of the parties' verbal agreement that Mr. Stokes would pay JSM a reasonable amount for the oil tank replacement and the furnace service.
13. In its November 7, 2020 invoice, JSM charged Mr. Stokes a total of \$1,152.73, broken down as follows:
 - a. \$630 for 3.5 hours at \$180 per hour, for Mr. Sadler and his apprentice to remove the old tank and install the new one,
 - b. \$195 for 1.5 hours at \$130 per hour for Mr. Sadler to service Mr. Stokes' oil furnace, and
 - c. \$272.84 in parts.

14. Mr. Stokes says JSM's invoice is excessive and that he billed for too much time for each job. He says the oil tank work should have taken less than 2 hours rather than 3.5 hours and the furnace service should have taken less than 1 hour rather than 1.5 hours. Mr. Stokes says he saw Mr. Sadler and his apprentice talking and, 30 minutes later they were "still talking". I do not find this proves Mr. Sadler and his apprentice did not work in that 30-minute period, as Mr. Stokes did not observe them the entire time. Neither is there any indication that JSM did not actually spend 3.5 hours working on the oil tank and 1.5 hours on the furnace service. Rather, Mr. Stokes says it should not have taken that long.
15. Mr. Stokes says Mr. Sadler left during the tank installation to get new parts when he should have already known what he needed from the initial inspection. It is unclear what parts Mr. Sadler needed to purchase, and why Mr. Stokes believes it should have been obvious to Mr. Sadler that he needed them. So, I do not find that Mr. Stokes spent unnecessary time buying new parts.
16. I find determining the industry standard for time and cost to remove and install an oil tank, and service an oil-burning furnace, requires expert evidence, because it is a matter beyond ordinary expertise (see *Bergen v. Guliker*, 2015 BCCA 283).
17. Mr. Stokes submitted an April 8, 2021 signed statement from a former customer of JSM. I give this statement little weight because I find the former customer's opinion about his plumbing invoice does not qualify as expert evidence about billing practices for oil tanks and furnaces.
18. Mr. Stokes says he worked as a mechanical engineer and, for the last 20 years, as a contractor. Mr. Stokes says he is familiar with fees charged by tradespeople in the area where his property is. I find Mr. Stokes's general contractor experience does not necessarily qualify him as an expert on the time it takes to remove and install an oil tank or service an oil burning furnace. Further, I find Mr. Stokes, as the respondent, is not a neutral party with an unbiased expert opinion. For these reasons, I place no weight on Mr. Stokes' opinion about whether JSM should have completed the work in less time or charged a lower hourly rate for the work.

19. Mr. Stokes submitted a comparison pricing document, which included hourly rates for other companies and time frames for tank installation and furnace service. I cannot accept this as expert evidence because it is unclear who Mr. Stokes spoke to at the other companies and how they were qualified to provide an opinion on industry standard timing or hourly rates. Further, it is unclear what information those people based their time and rate estimates on. So, I find I cannot rely on Mr. Stokes' comparison pricing document.
20. Based on Mr. Stokes' February 2, 2021 letter to JSM, and his submissions in this dispute, I find Mr. Stokes says JSM should have communicated about when it would be on site to do the work and whether new parts should be purchased to install the new oil tank. While I acknowledge Mr. Stokes' frustration with what he believed to be poor customer service, I find that does not mean Mr. Stokes is not required to pay JSM for the work it undisputedly completed.
21. Given that the parties did not agree on price before JSM did the work, I find the legal concept of quantum *meruit* applies, which means "value for work done" (see *Hodder Construction (1993) Ltd. v. Topolnisky*, 2021 BCSC 666). As noted in his February 2, 2021 letter to JSM, Mr. Stokes takes no issue with the quality of JSM's work. I find Mr. Stokes has failed to prove JSM's invoice is excessive or unreasonable. So, I find Mr. Stokes must pay JSM's November 7, 2020 invoice of \$1,152.73.
22. The *Court Order Interest Act* (COIA) applies to the CRT. JSM is entitled to pre-judgment interest on the \$1,152.73 from December 8, 2020, the due date on the November 7, 2020 invoice, to the date of this decision. This equals \$2.70.
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. JSM is entitled to reimbursement of \$125 in CRT fees. JSM did not claim any dispute-related expenses.

ORDERS

24. Within 30 days of the date of this order, I order Mr. Stokes to pay JSM a total of \$1,280.43, broken down as follows:
 - a. \$1,152.73 in debt for the November 7, 2020 invoice,
 - b. \$2.70 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
25. JSM 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.

Sherelle Goodwin, Tribunal Member