



# Civil Resolution Tribunal

Date Issued: July 20, 2021

File: SC-2021-002492

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *FortisBC Energy Inc. v. Szczepanski*, 2021 BCCRT 793

BETWEEN:

FORTISBC ENERGY INC.

**APPLICANT**

AND:

RYSZARD SZCZEPANSKI

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Lynn Scrivener

## INTRODUCTION

1. This dispute is about a damaged gas line. The applicant, FortisBC Energy Inc. (FortisBC) says that the respondent, Ryszard Szczepanski, damaged its gas line and asks for reimbursement of \$3,217.82 in repair costs. Mr. Szczepanski admits he

damaged the gas line, but says that the amount of FortisBC's claim is too high and is "beyond [the] value and time" of the repair work.

2. FortisBC is represented by an employee. Mr. Szczepanski is self-represented.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. 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.
5. 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.
6. 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**

7. The issue in this dispute is whether Mr. Szczepanski is responsible for the \$3,217.82 in repair costs claimed by FortisBC.

## **EVIDENCE AND ANALYSIS**

8. In a civil proceeding like this one, an applicant must prove their claims on a balance of probabilities. I have read all the parties' submissions but refer only to the evidence and argument that I find relevant and necessary to provide context for my decision.
9. The parties agree that Mr. Szczepanski damaged a FortisBC gas service line on August 3, 2019. According to documents in evidence, Mr. Szczepanski thought he was cutting a water line but mistakenly cut the gas line. There is no dispute that he did not contact "BC 1 Call" as required to confirm the location of the underground utilities before performing this work.
10. After being alerted to the problem by the local fire department, FortisBC sent a technician to assess the situation. The technician determined that a repair crew was required. Because the incident occurred on the weekend, FortisBC sent a "standby" crew to the scene. The crew was able to control the gas flowing from the broken line, repair the line, and then restore the gas service. FortisBC's records show that its personnel were on site between 14:56 and 19:44 hours, but FortisBC says that it also paid travel time for its personnel. A manager was also involved by phone, but it does not appear that this person attended the scene.
11. On February 27, 2020, FortisBC sent Mr. Szczepanski an invoice for \$3,217.82 in repair costs. This amount was broken down as follows: \$564 for vehicle charges, \$2,574.42 for labour, and \$79 for other charges. There was no GST applied to the invoiced amount.
12. Mr. Szczepanski did not pay this invoice. In his submissions in this dispute, Mr. Szczepanski admits that he is responsible for the repair but says that the amount FortisBC charged him is too high. Central to his defence is the fact that the crew was

being paid at overtime rates. FortisBC says that the standby crew was charged out at overtime rates because it was the weekend.

13. Mr. Szczepanski says that the repair costs were higher than they needed to be because the crew “took advantage” of the situation to increase their overtime pay. He says that, despite the length of time the crew was on the site, it only took them about an hour and a half of work to fix the gas line. According to Mr. Szczepanski, the remainder of the time was spent with the crew “loitering” while waiting for instructions, “shooting the breeze” instead of working steadily, and taking a meal break. He says that, had FortisBC told him that he would be responsible for the repair costs, he would have pushed the crew to finish as quickly as possible. Mr. Szczepanski’s position is that the work performed did not match the time and cost shown on the invoice, and he says he feels cheated as a customer.
14. FortisBC says that, when there is an emergency situation like the one here, its crew does not know what to expect until they arrive at the site. According to FortisBC, the crew attends as a unit even though every member may not be required at all times. It also says that the crew does not decide whether a customer would be billed for their work.
15. I find FortisBC has established that its personnel repaired the damaged gas line and that it incurred costs in doing so. Given his admission that he is responsible for the repair costs, I find that the burden of proof shifts to Mr. Szczepanski to provide that FortisBC overcharged him for the repair work.
16. There is no indication that Mr. Szczepanski made an agreement with FortisBC that would limit the amount of time the repair would take or the amount of money he would be charged for it. Mr. Szczepanski is, in effect, asking the CRT to determine the reasonableness of FortisBC’s charges. However, he has not provided evidence to support his arguments that the repair work should have taken less time, that the crew could have completed the repairs faster, or that the value of the work did not match the amount FortisBC charged him. I also find that Mr. Szczepanski’s submission that

the crew deliberately slowed down the job in order to gain the benefit of additional overtime pay is speculative and not supported by evidence.

17. Based on the evidence before me, I find that Mr. Szczepanski is responsible for the entire \$3,217.82 invoiced by FortisBC.
18. The *Court Order Interest Act* applies to the CRT. I find that FortisBC is also entitled to pre-judgment interest calculated from the date of the February 27, 2020 invoice (which was due upon receipt). This equals \$36.66.
19. 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 FortisBC is entitled to reimbursement of \$175 in CRT fees. It did not claim any dispute-related expenses.

## **ORDERS**

20. Within 30 days of the date of this decision, I order Mr. Szczepanski to pay FortisBC a total of \$3,429.48, broken down as follows:
  - a. \$3,217.82 in damages,
  - b. \$36.66 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$175 in CRT fees.
21. FortisBC is also entitled to post-judgment interest, as applicable.
22. 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 in effect until 90 days after June 30, 2021, which is the date of the end of the state of emergency declared on March 18, 2020, 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.

23. 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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Lynn Scrivener, Tribunal Member