



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *McRobbie v. Denman (dba Rusty Hookers)*, 2021 BCCRT 855

B E T W E E N :

NICHOLAS MCROBBIE

APPLICANT

A N D :

STEPHEN DENMAN (Doing Business As RUSTY HOOKERS)

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a dispute about van repairs. The applicant, Nicholas McRobbie, hired the respondent, Stephen Denman (doing business as Rusty Hookers), to repair the floor of his 1998 Chevy G20 van. Mr. McRobbie says Mr. Denman overcharged him and that the repairs were deficient and damaged the van. Mr. McRobbie claims a refund of the \$1,500.07 he paid Mr. Denman for his services, payment of \$2,583.60 for the

cost of repairing the van, and payment of \$166.43 for the cost of having his van inspected and acquiring documents, for a total of \$4,250.10.

2. Mr. Denman denies that he overcharged Mr. McRobbie, and says he completed the repairs to industry standards and as the parties agreed.
3. Both parties are self-represented in this dispute.

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.

ISSUES

8. The issues in this dispute are:
 - a. Did Mr. Denman overcharge Mr. McRobbie for the van repairs?
 - b. Was Mr. Denman's repair work deficient, and if so, is Mr. McRobbie entitled to damages?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, as the applicant, Mr. McRobbie must prove his claims on a balance of probabilities. I have read all the parties' evidence and submissions but refer only to what I find relevant to explain my decision. For the following reasons, I dismiss Mr. McRobbie's claims.
10. It is undisputed that Mr. McRobbie hired Mr. Denman in November 2020 to repair rust damage to the floor of his van so he could install a removable rear seat. The parties agreed that Mr. Denman would use sheet metal to repair the flooring because new replacement flooring was unavailable. It is undisputed that Mr. Denman completed the work and Mr. McRobbie paid him \$1,500.67, despite his dissatisfaction with the result and the cost.

Did Mr. Denman overcharge Mr. McRobbie for the work?

11. It is undisputed that Mr. McRobbie dropped his van off with Mr. Denman on the evening of November 9, 2020, and Mr. Denman completed the work on November 13, 2020. Mr. McRobbie says that before starting the work Mr. Denman verbally quoted him \$750 for the repairs and a maximum of \$1,000. He says Mr. Denman promised to notify him if an overage seemed likely and he would not have agreed to "uncapped" work. Mr. McRobbie says that once Mr. Denman started working on the van, the next contact he had from him was a November 11, 2020 text message showing a photo of a large area he had removed from the rear of the van. However, Mr. McRobbie did not submit the text message as evidence. Mr. McRobbie says Mr.

Denman notified him on November 12, 2020 that the job would go over budget because the rust was more extensive than expected, and the rear seat could not be installed. Mr. McRobbie says Mr. Denman never warned him before removing the van's larger floor area, and since Mr. Denman removed the entire rear floor section, Mr. McRobbie had no choice but to pay the higher amount to repair the van.

12. Mr. Denman denies providing an estimate as Mr. McRobbie alleges. He says his policy is to charge \$85 per hour for time and materials, with no exceptions. He says that under no circumstances does he give estimates or quotes for work in advance. He says he completed the work as the parties agreed.
13. Both parties submitted identical copies of a November 9, 2020 "garage repair order" for \$1,500.67 (work order). It includes 13 hours of labour at \$85 per hour, plus steel welding supplies and shop supplies. Mr. Denman described the work order as a "work authorization," and it states, "I hereby authorize the above repair work to be done along with the necessary material..." There is a signature below this paragraph which I infer is Mr. McRobbie's because Mr. Denman says Mr. McRobbie signed the work order, and Mr. McRobbie does not deny it. Mr. McRobbie says the labour hours and costs were filled in after Mr. Denman completed the work, and Mr. Denman does not dispute this. However, I find there is nothing on this document supporting Mr. McRobbie's claim about an estimate between \$750 and \$1,000 or specifying which area of the van's floor was to be removed. I find Mr. McRobbie has not proven that Mr. Denman quoted him between \$750 and \$1,000 for the work, or that Mr. Denman completed any repairs beyond the scope of what the parties initially agreed to. So, I find Mr. McRobbie has not established that Mr. Denman overcharged him for the repair work.

Was Mr. Denman's repair work deficient, and if so, is Mr. McRobbie entitled to damages?

14. I turn now to the quality of Mr. Denman's repair work. Mr. McRobbie says Mr. Denman's repair work was "shockingly poor" and that it compromised the van's structural integrity, safety, and load-bearing ability, significantly reduced its resale

value, and in the event of a future collision, could void his insurance. He says the repair work would not “pass inspection,” and left his van in such a state that he was advised to scrap it. On the contrary, Mr. Denman says he performed the repair work to industry standards and as Mr. McRobbie requested, and he is confident in the repair’s structural integrity.

15. Mr. McRobbie says Mr. Denman assured him he would complete the work professionally and to a suitably high standard, and that he would return the van in a safe and drivable state. Even if Mr. Denman did not expressly make such an assurance, I find such terms were implied in the parties’ contract. However, I find that whether Mr. Denman’s work was deficient is technical and beyond ordinary knowledge, and so expert evidence is required to determine the appropriate standard of competence (see *Bergen v. Guliker*, 2015 BCCA 283).
16. Mr. McRobbie says he received opinions about Mr. Denman’s work from multiple body repair shops, though he submitted evidence from only 2 different shops. The first is a February 23, 2021 invoice from West Coast Alignment & Frame Ltd. (West Coast) for \$134.40 for a visual inspection of Mr. Denman’s repairs to the van.
17. CRT rule 8.3(2) requires an expert providing a written opinion to state their qualifications. CRT rule 8.3(3) allows the CRT to accept expert opinion evidence from a person it decides is qualified to give that opinion by education, training, or experience. Mr. McRobbie says West Coast is a designated inspection facility but I find that is not indicated anywhere on the invoice. Mr. McRobbie says Chris Evens visually inspected the van, but I find Chris Evens is one of 2 names on the invoice, and the extent of the inspection is unclear. There is also no information about Chris Evens’ qualifications, background, or experience anywhere on the invoice. Mr. McRobbie provided the phone number for Chris Evens if the CRT wished to verify their evidence. However, parties are notified during the case management phase that they must submit all relevant evidence by the deadline provided. In the circumstances, I find the West Coast invoice does not meet the requirements for

expert opinion evidence in CRT rule 8.3, and I decline to exercise my discretion under CRT rule 1.2(2) to waive the requirements.

18. I also find the West Coast invoice's conclusions are vague and provide insufficient details to support Mr. McRobbie's position. The invoice says the repair "is not up to any code or structural quality" and, "if I were to inspect this vehicle I would have to fail it for structural integrity." However, I find the invoice does not explain what code requirements Mr. Denman's work failed to meet, nor does it sufficiently explain the structural problems. The invoice says the flat floor panel "should be as per original corrugated style" but does not explain why. It also says the van floor is "only partially welded and the rest has been seam sealed," but does not explain why welding is preferred over seam sealing or whether seam sealing fails to meet any required repair standard. For all of these reasons, I place no weight on this evidence.
19. Mr. McRobbie also submitted a December 11, 2020 repair estimate from Preston Wong at Paragon Collision for \$2,583.63 plus \$115.34 in GST. The estimate includes removing and replacing the rear frame floor panel, refinishing the "rear rear floor plan", repairing "recycled parts trim time," removing "makeshift" flooring, plus materials. However, this estimate does not provide any opinion about the quality of Mr. Denman's work or explain why the repairs to the van are necessary, so I place no weight on it.
20. Mr. McRobbie also says Mr. Denman should not have installed sheet metal as flooring in the van. He says that before Mr. Denman started working on the van, Mr. McRobbie found an available section of factory flooring he could buy and use as an alternative to the sheet metal flooring the parties had initially agreed upon. He says that when he told Mr. Denman about this, Mr. Denman assured him he already had everything he needed to repair the floor, and that the welded sheet metal flooring would be as strong and functional as the factory flooring. Mr. McRobbie says he relied on Mr. Denman's expertise and declined to purchase the flooring. Mr. Denman says Mr. McRobbie agreed to the sheet metal flooring and he has no record of Mr. McRobbie offering to supply factory flooring for the van. Mr. McRobbie says all communications

about the factory flooring he found were verbal. However, Mr. McRobbie failed to provide any documentary evidence about the factory flooring he allegedly found, such as an advertisement or photo, even though I expect such evidence would have been available to him. On the evidence before me, I find Mr. McRobbie has failed to establish that Mr. Denman failed to use available factory flooring for the van repairs. Consequently, I also find Mr. McRobbie's allegation that the new flooring does not match the remaining flooring in the van has no merit.

21. Mr. McRobbie also says Mr. Denman improperly used an undercoat to paint the new flooring, which he says is not meant for internal vehicle use because it can off-gas fumes into the cabin. He also says Mr. Denman failed to properly seal or paint sections on the underside of the van, leaving them exposed to the elements. Mr. McRobbie submitted some photos to support these allegations, but I find that without more, the photos alone do not prove these allegations.
22. Mr. McRobbie also says the seam sealer has shrunk, exposing bare metal which is vulnerable to rust. However, I find I cannot determine this from the photos he provided and there is no other evidence to support this allegation. Mr. McRobbie also says the seam sealer is so soft and sticky that light pressure leaves fingerprints and can dislodge it. He submitted a photo which appears to have been taken on November 16, 2020, showing a finger depressing into the seam sealer. However, Mr. Denman says the seam sealer would have taken some time to harden, though he does not specify a time period. In a January 21, 2021 letter to Mr. Denman, Mr. McRobbie said that as of January 21, 2021, the seam sealer still had not hardened. However, he provided no photos or other evidence to support this, and the February 23, 2021 West Coast invoice does not mention anything about the seam seal being soft. On the evidence before me, I am not satisfied that the soft seam sealer shown in a photograph approximately one week after the repair work is sufficient to prove that Mr. Denman's repair work was deficient.

23. Mr. McRobbie further alleges that Mr. Denman's repairs reduced the van's resale value, could void his insurance, and that he was advised to scrap the van. However, I find Mr. McRobbie has not provided any evidence to support these allegations.
24. In summary, I find Mr. McRobbie has not proven that Mr. Denman's repair work was deficient or below industry standards, so I find Mr. McRobbie is not entitled to damages. I dismiss his claim.
25. 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 Mr. McRobbie was unsuccessful, I find he is not entitled to reimbursement of his CRT fees. Mr. Denman did not pay fees. Neither party claimed dispute-related expenses.

ORDERS

26. I dismiss Mr. McRobbie's claims and this dispute.

Sarah Orr, Tribunal Member