



Civil Resolution Tribunal

Date Issued: August 6, 2021

File: SC-2021-002842

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Revolution Resource Recovery Inc. v. Bravo Cucina Restaurante Italiano Ltd.*, 2021 BCCRT 865

B E T W E E N :

REVOLUTION RESOURCE RECOVERY INC.

APPLICANT

A N D :

BRAVO CUCCINA RESTAURANTE ITALIANO LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about an alleged breach of a waste disposal contract.
2. The applicant, Revolution Resource Recovery Inc. (Revolution), and the respondent, Bravo Cucina Restaurante Italiano Ltd. (Bravo), entered into a waste disposal

services contract on May 3, 2016 (Revolution Agreement). At the time, Bravo had a pre-existing waste disposal contract with WCM, another waste disposal provider. Revolution says Bravo has breached the Revolution Agreement because it refuses to accept Revolution's waste disposal services which Revolution says were scheduled to start on May 4, 2021. Revolution claims \$3,060 in liquidated damages.

3. Bravo says the Revolution Agreement expired and it did not sign any new agreement with Revolution. It also says its current agreement with WCM overrides any agreement it signed with Revolution. Further, Bravo says it told Revolution it did not want its waste disposal services 3 years ago and again just recently.
4. Revolution is represented by an employee. Bravo is represented by an owner.

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.

ISSUES

9. The issue in this dispute is whether Bravo breached the Revolution Agreement by refusing its services in 2021 and, if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

10. In a civil claim like this one the applicant, Revolution, must prove its claim on a balance of probabilities. I have reviewed both parties' submissions and the evidence provided but only refer to that necessary to explain my decision. I note that Bravo did not provide any evidence, despite being given the opportunity to do so.
11. As noted, the parties signed their agreement on May 3, 2016. I find the relevant terms of the Revolution Agreement are:
 - a. Revolution will provide waste disposal services to Bravo for \$255 per month.
 - b. The service commencement date is listed as June 16, 2018.
 - c. The service commencement date will be deferred if Bravo is involved in a prior waste disposal contract that pre-dates the Revolution Agreement and extends beyond the service commencement date in the Revolution Agreement. In such a case Revolution's service commencement date will be deferred to the day after the prior contract terminates.
 - d. The initial term is from the May 3, 2016 signing date to 12 months after the identified June 16, 2018 service commencement date. The agreement renews

- automatically at the end of the initial term for a 12-month term and continues renewing every 12 months until terminated under the terms of the agreement.
- e. Bravo can only terminate, or cancel, the agreement by sending written notice to Revolution by registered mail no more than 120 days and no less than 90 days before the end of any term (cancellation window).
 - f. If Bravo attempts to terminate the agreement outside of the cancellation window, Revolution can either affirm the agreement and continue on with waste disposal services, or Revolution can accept the termination and require Bravo to pay liquidated damages.
 - g. Liquidated damages are calculated as the greater of the total of the most recent 15 months of bills, the total of 15 times the average monthly bill, or the total of 15 times the projected cost of the first monthly bill.
 - h. If Bravo receives an offer from another waste disposal provider or enters into another waste disposal contract at any point in the Revolution Agreement term, Bravo must provide a copy of that other contract to Revolution within 10 days, with some exceptions which I find do not apply here.
12. Revolution says the service commencement date was deferred to May 4, 2021 because Bravo had a prior contract with WCM. As explained below, I disagree.
13. Bravo undisputedly had a waste disposal contract with WCM (1st WCM contract) when it signed the Revolution Agreement on May 3, 2016. The 1st WCM contract specifically identifies June 1, 2008 as the service commencement date. The contract has a term of 5 years from the service commencement date, and automatically renews for a further 5-year term unless terminated, which I find there is no indication of here. I find the 1st WCM contract's term would have ended on June 1, 2018, which is before the June 16, 2018 service commencement date specified in the Revolution Agreement. This is important because it means the 1st WCM contract does not meet the definition of a "prior contract" in the Revolution Agreement and therefore does not defer the Revolution Agreement's June 16, 2018 service commencement date.

14. Bravo signed a 2nd waste disposal contract with WCM on May 4, 2016 with a service commencement date of May 4, 2016. The 2nd WCM contract had a 5-year term which renewed automatically. I find the 2nd WCM contract also does not meet the definition of a “prior contract” under the Revolution Agreement because it was not signed before the Revolution Agreement, but rather a day later. So, I find the 2nd WCM contract does not defer Revolution’s June 16, 2018 service commencement date under the terms of the Revolution Agreement.
15. It is clear that Revolution believed the 2nd WCM contract deferred its service commencement date to May 4, 2021. Revolution advised Bravo of this in a June 6, 2018 letter. However, there is no indication that Bravo agreed to change the Revolution Agreement start date and, given its submissions that it tried to cancel the contract, I find Bravo did not agree to the change. I find Revolution was not authorized to change its service commencement date under the Revolution Agreement, without Bravo’s consent. As Bravo did not consent to the change, Revolution’s service commencement date remained June 16, 2018.
16. I have considered whether Bravo breached the Revolution Agreement in 2016 by failing to send the 2nd WCM contract to Revolution within 10 days of receiving it as required under the Revolution Agreement. I have also considered whether Bravo breached the Revolution Agreement in 2018 by attempting to cancel it outside the agreed upon cancellation window. It is undisputed that Bravo sent Revolution the 2nd WCM contract in early June 2018. This is supported by Revolution’s June 6, 2018 letter attempting to defer the service commencement date. Further, Bravo says it told Revolution 3 years ago that it did not want its waste disposal services. I infer Bravo refers to the June 2018 correspondence between the parties as well as telephone calls it says it made. These are both potential breaches of the Revolution Agreement’s terms.
17. However, Revolution has not based its claim on any potential 2016 or 2018 agreement breach by Bravo. Further, I find any such claim would be out of time, as Revolution applied for dispute resolution beyond the 2-year statutory limit under the

Limitation Act. So, I find I need not consider whether Bravo breached the Revolution Agreement in either May 2016 or June 2018.

18. Overall, I find Bravo did not breach the Revolution Agreement by refusing to accept waste disposal services in 2021 because it was not required to do so. I dismiss Revolution's claim for liquidated damages.
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. As Revolution was unsuccessful, I find it is not entitled to reimbursement of any CRT fees. As the successful respondent, Bravo did not claim any fees or dispute-related expenses.

ORDER

20. I dismiss Revolution's claims, and this dispute.

Sherelle Goodwin, Tribunal Member