



# Civil Resolution Tribunal

Date Issued: August 13, 2021

File: SC-2021-000985

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jian v. City of Richmond*, 2021 BCCRT 891

BETWEEN:

RUILIANG JIAN

**APPLICANT**

AND:

CITY OF RICHMOND

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Lynn Scrivener

## INTRODUCTION

1. This dispute is about a claim for a refund. The applicant, Ruiliang Jian, says the respondent, City of Richmond (City), cut the grass in his yard while he was out of the country during the COVID-19 pandemic and then charged him \$1,694.90 for this

work. Although he paid the City this amount, Mr. Jian says that the value of the work is only \$501.24. He asks for a refund of \$1,193.66.

2. The City says it did work on Mr. Jian's property to remedy a bylaw contravention, and the invoiced amount was the "true cost" it incurred. The City denies that Mr. Jian is entitled to the refund he claims.
3. Mr. Jian is self-represented. The City is represented by an employee.

## **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. Whether the CRT has jurisdiction over Mr. Jian's claim, and
  - b. If so, whether Mr. Jian is entitled to the \$1,193.66 refund he claims.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, applicants 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.
10. Mr. Jian is the owner of a property in Richmond, British Columbia. He says that, due to restrictions associated with the COVID-19 pandemic, he was outside of Canada for much of 2020. According to Mr. Jian, his tenant left in March of 2020, leaving nobody to manage the property.
11. The City's Bylaw 7162 (Bylaw), which is titled the Unsightly Premises Regulation, provides at section 1.1.1(a) that an owner or occupier of a property must not allow the property to become or remain unsightly. The Bylaw also says at section 1.2.1(d) that a property owner must "keep grass trimmed to a height of not more than 20 centimeters". Section 2.2 of the Bylaw gives the City the authority to enter a property to "remove or clear the offending material at the expense of the defaulting owner" if an owner fails to comply with an Order to Comply (OTC). The Bylaw sets out a procedure for appealing an OTC, but not for appealing the costs to remedy a violation.
12. According to the City's records provided in evidence, it received a complaint about the grass at Mr. Jian's property in May of 2020. A City bylaw officer attended Mr. Jiang's home on May 15, 2020 and reported that there was a "long grass issue". The City submitted photos that show very tall grass and weeds on the property, as well as plant debris strewn across the driveway. Having received no response to a knock

at the door, the bylaw officer left an OTC on the door asking for the long grass to be cut and removed by May 22, 2020.

13. The bylaw officer returned to the property on May 27, 2020 and saw that the grass had not been cut and the notice was still on the door. On that date, the bylaw officer sent a letter to Mr. Jian at the property's address to advise him of the Bylaw contravention and the need to bring the property into compliance by June 10, 2020. If the contravention remained, the letter stated that Richmond would arrange for the "necessary actions" to be undertaken at Mr. Jian's expense. The letter attached an Order to Comply under the Bylaw, and directed Mr. Jian to attend to "[c]utting of all the long grass and weeds on the property, including the boulevard fronting the property".
14. On June 11, 2020, the bylaw officer attended the property again, and noted that the grass was not yet cut. The bylaw officer instructed a City crew to clean up the property. The City sent employees to Mr. Jian's property on two days in June of 2020. Later, in a January 26, 2021 email, the bylaw officer reported that an employee who performed the clean-up on the property described "knee to waist height long grass in both front and backyards, some weeds were up to chest height in the backyard". I find that this description is consistent with the photos in evidence.
15. The City's employees reported that they spent 23.67 hours cleaning up the property, which resulted in labour charges of \$1,412.42. The City added a 20% administrative overhead charge to this amount. The City sent Mr. Jian an August 21, 2020 invoice for a total of \$1,694.90 in clean-up charges.
16. Mr. Jian says he was not aware of the Bylaw contravention or the City's invoice until November 5, 2020. He questioned the cost of the work and requested that the invoiced amount be reduced, but the City declined. Mr. Jian paid the full \$1,694.90 to the City and, in this dispute, requests a refund of the portion of the charges that he says are unreasonable.

17. Mr. Jian does not claim that the City does not have authority under its bylaws, or that the City acted improperly in enforcing them. He also does not dispute that there was a bylaw contravention at a property he owns. Mr. Jian does not claim that the City should not have charged him for the costs of remedying the contravention. Instead, Mr. Jian disputes the remediation costs listed on the August 21, 2020 invoice as he says they are too high.
18. The CRT's small claims jurisdiction includes debt or damages in section 118(1)(a) of the CRTA. However, although Mr. Jian framed his claim as a debt, I find that it does not fall within the scope of debt or damages.
19. In *Abbas Khani-Hanjani v. City of Surrey*, 2012 BCPC 346, the British Columbia Provincial Court concluded that a claim to reverse an invoice for penalties and interest assessed by the City of Surrey for addressing a municipal bylaw contravention was not a claim for debt and damages. The Court held that such a claim was "more in the nature of a declaration or injunction and those forms of relief are not available in this Court" (see paragraph 40), and the claim was dismissed for lack of jurisdiction. This decision is binding upon me.
20. Based on the reasoning in *Abbas Khani-Hanjani*, I find that Mr. Jian is seeking a declaration that the clean-up costs the City listed on the August 21, 2020 invoice were too high and should be replaced by the \$501.24 he says he is willing to pay. This number is based on his estimate of how many hours the clean-up work should have taken.
21. The order Mr. Jian seeks would require declaratory relief, which is not included in the scope of the CRT's small claims jurisdiction as set out in section 118 of the CRTA.
22. Section 10(1) of the CRTA says that the CRT must refuse to resolve a claim that it considers to be not within its jurisdiction. As the only remedy that Mr. Jian requests is the declaratory relief over which I have no jurisdiction, I must refuse to resolve this dispute.

23. Given my decision to refuse to resolve the dispute, the CRT will refund any CRT fees paid to date.

**ORDER**

24. I refuse to resolve this dispute under section 10(1) of the CRTA.

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Lynn Scrivener, Tribunal Member