



Civil Resolution Tribunal

Date Issued: August 17, 2021

File: SC-2020-009022

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Balsam Electric Ltd. v. Sevco Enterprises Ltd.*, 2021 BCCRT 897

B E T W E E N :

BALSAM ELECTRIC LTD.

APPLICANT

A N D :

SEVCO ENTERPRISES LTD.

RESPONDENT

REASONS FOR SUMMARY DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This is a summary decision of the Civil Resolution Tribunal (CRT). The respondent, Sevco Enterprises Ltd. (Sevco), raises the issue of whether the applicant's, Balsam Electric Ltd.'s (Balsam's), claims are out of time. CRT staff referred this dispute to me for a decision on this issue.

2. The parties are represented by their employees or principals.
3. For the reasons that follow, I find Balsam's claims are out of time under the *Limitation Act* and dismiss them. In making this decision, I reviewed the Dispute Notice, the Dispute Response, the parties' submissions as documented in a Preliminary Issue Tribunal Decision Plan, and some text messages provided by Balsam.

JURISDICTION AND PROCEDURE

4. These are the CRT's formal written reasons. 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 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 is whether Balsam is out of time to bring its claims against Sevco.

EVIDENCE AND ANALYSIS

8. Balsam alleges the following in its Dispute Notice. Sevco hired Balsam to upgrade Sevco's warehouse lighting. Balsam purchased non-returnable bulbs to do so. On June 26, 2017, Sevco emailed Balsam to advise that it no longer wanted to upgrade the lighting. Balsam subsequently asked Sevco to reimburse the cost of the bulbs plus labour. Sevco refused. Balsam claims \$5,000 as compensation in this dispute for the bulbs and labour.
9. Sevco denies the claim. It says in the Dispute Response that Balsam's claims are out of time.

The Limitation Act

10. The *Limitation Act* applies to disputes before the CRT. A limitation period is a time period within which a person may bring a claim. The basic limitation period under section 6 of the *Limitation Act* is 2 years from the date a claim is discovered. If that period expires, the right to bring the claim ends, even if the claim would have otherwise been successful. CRTA section 13.1 says the limitation period stops running after an applicant requests the CRT to resolve a claim.
11. Section 8 of the *Limitation Act* provides that a claim is discovered by a person when they knew or reasonably ought to have known they had a claim against the respondent and that a court or CRT proceeding was an appropriate means to seek a remedy.
12. In the Dispute Notice, Balsam says it became aware of its claim on June 26, 2017. This was the date Sevco emailed Balsam and said that it no longer wanted the bulbs, as discussed above. In submissions, Balsam did not say a different date would be more appropriate. Balsam also provided a copy of a November 21, 2017 text message in which it advised Sevco that its invoice was still unpaid. The message was part of a longer series of texts. From the context, I find Balsam's invoice was for the bulbs and labour costs at issue.

13. Given the above, I find Balsam discovered its claims by November 21, 2017 at the latest. This is because Balsam's text message shows it knew at the time that its invoice was overdue. I find Balsam knew or reasonably ought to have known that commencing a court or CRT proceeding would have been appropriate. As Balsam discovered its claim on November 21, 2017, I find it had until November 21, 2019 to request dispute resolution with the CRT to preserve its claim.
14. Balsam filed its application for dispute resolution on April 29, 2021. This is approximately 17 months after the limitation period expired. I note that section 24 of the *Limitation Act* allows for a limitation period to be extended under certain circumstances. There is no submission or evidence that the parties extended the limitation period. So, I find Balsam's claims are out of time and I dismiss them for that reason.
15. Under section 49 of the CRTA and CRT rules, the CRT generally will order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Balsam was not successful, I dismiss its claim for reimbursement of CRT fees.

ORDER

16. I dismiss Balsam's claims and this dispute.

David Jiang, Tribunal Member