



Civil Resolution Tribunal

Date Issued: November 9, 2021

File: SC-2021-002408

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *0955824 B.C. Ltd. v. Yang*, 2021 BCCRT 1184

BETWEEN:

0955824 B.C. LTD. DBA VAN PRO DISPOSAL

APPLICANT

AND:

HUIJUN YANG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. This dispute is about an unpaid invoice for waste disposal services.
2. The applicant, 0955824 B.C. Ltd. dba Van Pro Disposal, (Van Pro), supplied, removed, and dumped two 40-ton bins for the respondent, Huijun Yang, in September

2020. Van Pro says it performed the agreed services and Ms. Yang only paid \$1,514.50 of its \$3,694.95 invoice. It seeks payment of the \$2,180.45 invoice balance.

3. Ms. Yang says Van Pro breached the contract by not giving her independent, third-party verification of her bins' waste weights. She also alleges that Van Pro altered its documents and attempted to deceitfully charge her for extra weight in the bins. Ms. Yang says she has already paid what she believes she owes under the contract and disputes that she owes anything more.
4. Van Pro is represented by a director. Ms. Yang is self-represented.
5. For the reasons that follow, I dismiss Van Pro's claim.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.
8. 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.

9. 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.

Preliminary Matters

10. The parties submitted evidence and argument outside of the CRT's regular timelines. Considering the CRT's mandate of flexible dispute resolution, I have accepted all the parties' late evidence and submissions. I find the parties had a reasonable opportunity to respond and there is no prejudice to either party by the late submissions.
11. As a second issue, the parties' "WeChat" messages are written in Chinese characters and CRT rules require that the parties submit evidence in English. I have put no weight on the actual Chinese language WeChat messages. However, each party provided their own WeChat message translations. I have compared their translations and find they are consistent. I have accepted the WeChat English translations. I find they are reasonably reliable and relevant to this dispute.

ISSUES

12. The issues in this dispute are:
 - a. Did Van Pro provide independent verification to prove Ms. Yang's bins' waste weight?
 - b. To what extent, if any, does Ms. Yang owe Van Pro the \$2,180.45 invoice balance?

EVIDENCE AND ANALYSIS

13. In a civil proceeding like this one, the applicant Van Pro must prove its claims on a balance of probabilities (this means "more likely than not"). I have read all the parties' submissions but refer only to the evidence and argument that I find relevant to provide context for my decision.

14. The parties agree that Ms. Yang contracted with Van Pro in September 2020 to rent two 40-ton waste bins for \$130 per ton dump fees, \$180 per bin for trucking, and \$130 to relocate a bin around Ms. Yang's property. There is no written contract in evidence. I find the parties' contract was based on their verbal discussions and WeChat messages.
15. Ms. Yang says Van Pro agreed to send her "3rd party weighing" documents to confirm the dump fees, which I accept as it is not disputed and is supported by WeChat messages. Based on the parties' messages, I find this meant Van Pro would have Ms. Yang's waste weighed by an independent third-party and give her a document with the results. I find Van Pro providing Ms. Yang with these third-party documents proving the bin waste weight was a term of the parties' contract.
16. The parties agree that on September 16, 2020, Van Pro delivered Ms. Yang an empty bin (#4009). On September 17, 2020, Van Pro removed the first full bin and dropped off a second empty bin (#4003), which Ms. Yang filled with waste. Van Pro then removed the second full bin on September 21, 2020.
17. On September 23, 2020, Van Pro invoiced Ms. Yang a total of \$3,008.36 for trucking, relocation, and dump fees. After Ms. Yang questioned the dump fees, Van Pro told Ms. Yang that the invoice was meant for a different customer and sent Ms. Yang a new invoice also dated September 23, 2019. The new invoice shows \$490 for the trucking and relocation plus a \$1,430 dump fee (11 tons) on September 21, 2020 and a \$1,599 dump fee (12.3 tons) on September 24, 2020 for a total of \$3,694.95 with GST.
18. This dispute is over payment of the dump fees Van Pro charged Ms. Yang in the revised invoice. Ms. Yang does not dispute the trucking or relocation fees.

Did Van Pro provide independent verification to prove Ms. Yang's bins' waste weight?

19. Van Pro submitted 2 receipts from the City of Victoria transfer yard that it says are the third-party, independent weighing documents that prove the weight of Ms. Yang's

waste when dumped. The first receipt is dated September 21, 2020 and shows the bin dump weight was 11 tons. The second receipt is dated September 23, 2020 and shows the bin dump weight was 12.3 tons. I find they match the amounts in the revised invoice.

20. However, I agree with Ms. Yang that the City receipts do not prove they are for her bin waste. The City receipts have no bin numbers and are dated days after Van Pro picked up the 2 bins.
21. Van Pro says the reason the City receipts have no bin numbers is because the City does not include them on the receipts. While I accept this is the case, it does not assist Van Pro to prove the receipts are for Ms. Yang's bin waste.
22. Van Pro provided a statement from "WA" who states that he is Van Pro's "driver" and "manager". He says he picked up the bins, stored them at the yard of Housewise Construction Ltd. (Housewise) and then dumped Ms. Yang's bins at the City transfer station on September 21 and 23, 2020 respectively. He says that the City receipts are for Ms. Yang's bins.
23. As Ms. Yang points out, Housewise is affiliated with Van Pro. It and Van Pro have the same address registered at the BC Registry. Van Pro's driver, WA is also Housewise's director, which I note WA says nothing about in his statement. I agree with Ms. Yang that WA is not an independent or neutral witness. I find WA has an interest in the outcome of this dispute because it was his company that allegedly stored the 2 bins. He is also Van Pro's employee. For these reasons, I find WA's statement is not reliable and I do not accept WA's statement as proof that the City receipts are for Ms. Yang's bin waste.
24. Based on the City's operating hours, I find Van Pro would have had time to dump the waste the same day it picked up the bins from Ms. Yang's home. Van Pro says it stored the bins instead because Ms. Yang failed to pay a deposit. However, Ms. Yang paid no deposit and Van Pro still dumped the bins. I find this inconsistent with Van Pro's assertion that it stored the bins pending payment of the deposit. There is also

no supporting evidence that Van Pro asked Ms. Yang to pay a \$1,000 deposit before dumping the bins or that it informed her it would be storing the bins at its affiliate's yard pending a deposit.

25. Next, Van Pro relies on a statement from the Housewise yard manager, "MTH". MTH stated that WA dropped off bin #4009 on September 17, 2020 and MTH recorded the bin's net waste weight as "around" 11 tons. MTH says he recorded bin #4003's net waste weight as "around" 12.2 tons on September 21, 2020. MTH states that he weighs all bins that come into the yard on a scale and records the weight to protect Housewise and Van Pro's interests. If this were so, I would expect MTH to have created some type of entry log or record of the precise bin weights at the time they came into and left the yard but there are no such records in evidence. The only evidence are close-up photographs of Housewise's scale displaying weights that reasonably match the dump weights on the City receipts. Without something more, I am not persuaded the photographs show the weight of bins #4009 and #4003, or more specifically, Ms. Yang's bin waste weights. I find the photographs could be weighing anything.
26. Another unexplained inconsistency is Housewise's storage invoice, which shows that bin #4009 was stored starting on September 18, 2020 and bin #4003 was stored starting on September 22, 2020. Each of these dates are a day after Van Pro removed the bins from Ms. Yang's property. This inconsistency supports my conclusion that Van Pro's evidence is not reliable.
27. Van Pro has the burden to prove its claim in this dispute. I find Van Pro's evidence is internally inconsistent and insufficient to prove the City receipts are for Ms. Yang's bin waste. So, I am not satisfied that Van Pro provided Ms. Yang with the third-party weighing documents as agreed.
28. Considering my findings above, I do not need to decide if Van Pro also altered the bin weight records as Ms. Yang alleges.

To what extent, if any, does Ms. Yang owe Van Pro the \$2,180.45 invoice balance?

29. On October 22, 2020, Ms. Yang paid Van Pro a total of \$1,514.50 as shown by the cashed cheque.
30. Ms. Yang says she paid \$514.50 for the trucking and bin relocation including GST, plus \$1,000 for “reasonable” dump fees. She says absent independent waste weight verification she believed \$1,000 was close, “if not exceeding”, the amount that was owed.
31. I find Van Pro breached the contract by not providing the third-party weighing documents. I also find Van Pro failed to prove the actual bin dump weight of Ms. Yang’s waste. So, I find Van Pro has not established it is owed any more than the amount Ms. Yang already paid. I dismiss Van Pro’s claim.
32. 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. As the unsuccessful party, I find Van Pro is not entitled to reimbursement of its paid \$125 in CRT fees. Neither party claimed dispute-related expenses.

ORDER

33. I dismiss Van Pro’s claims and this dispute.

Trisha Apland, Tribunal Member