



Civil Resolution Tribunal

Date Issued: November 17, 2021

File: SC-2021-002812

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *YZ Engineering Corp. v. Yi*, 2021 BCCRT 1217

BETWEEN:

YZ ENGINEERING CORP.

APPLICANT

AND:

JINGWEN YI

RESPONDENT

AND:

YZ ENGINEERING CORP.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about structural engineering services. The applicant and respondent by counterclaim, YZ Engineering Corp. (YZ), says it provided structural engineering design services and drawings to the respondent, Jingwen Yi. YZ claims \$1,850 for unpaid services.
2. Miss Yi says YZ's services were substandard, as she alleges its drawings did not comply with building codes, required multiple revisions, and the renovations based on its drawings never passed inspection. She says she should not have to pay for YZ's deficient services.
3. Miss Yi also argues that YZ's errors resulted in increased costs for building materials and garbage disposal fees, and that she suffered a loss of rental income due to the delays, which together she says total over \$35,000. Miss Yi counterclaims for \$5,000, which is the small claims monetary limit in the Civil Resolution Tribunal (CRT). Miss Yi expressly abandoned any claim to the excess over \$5,000.
4. YZ is represented by a principal, JZ. Miss Yi is self-represented.

JURISDICTION AND PROCEDURE

5. 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 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 issues in this dispute are:
 - a. Is YZ entitled to payment of \$1,850 for its services?
 - b. Was YZ's work deficient, and if so, is Miss Yi entitled to damages for increased building costs and loss of rental income?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant YZ must prove its claims on a balance of probabilities (meaning "more likely than not"). Miss Yi must prove her counterclaims on the same standard.
11. YZ did not provide any evidence in this dispute. I note that YZ suggested in submissions that it may have encountered technical difficulties in uploading its evidence. However, I decided not to follow up with YZ about its evidence because, given my findings below, I find YZ was not prejudiced by its lack of evidence. I have considered all the parties' submissions and Miss Yi's evidence, but I refer only to what I find is necessary to explain my decision.

12. It is undisputed that Miss Yi hired YZ to prepare engineering drawings for a municipal permit application to add stairs from the garage to an upstairs bedroom in Miss Yi's mother's home. Initially, the plan also included installing a bathroom in the garage. Miss Yi says her husband is an apprentice carpenter. I infer that Miss Yi's husband was going to build the stairs and bathroom, based on YZ's drawings.
13. YZ says it produced the requested drawings and a "Schedule B", based on Miss Yi's instructions. YZ says Miss Yi received the building permit to proceed with the project, but she failed to pay YZ for its services. As noted, YZ claims \$1,850.
14. The parties provided very limited evidence about their agreement's terms. Neither party provided a copy of any written contract, and I infer there was none. Miss Yi says she hired YZ not just to design the proposed renovations and prepare drawings for the permit application, but also to manage the project from the beginning to the end, which YZ denies.
15. While I find the evidence shows YZ assisted Miss Yi and her husband with design issues after they received the building permit, on the limited evidence before me, I find there is insufficient evidence to conclude YZ agreed to be a "project manager" or to assist with the project until it was complete.
16. On balance, I find YZ initially agreed only to provide engineering plans for the purpose of obtaining an approved permit, and any services it provided beyond that were likely provided on a complimentary basis. However, there is no evidence about what YZ said it would charge for its work, or what Miss Yi agreed to pay. Neither party provided any evidence about whether YZ agreed to charge a flat rate or to charge by the hour. YZ provided no evidence about how much time it spent, its usual rates, or any information about what the industry standard charge is for such work. YZ also provided no estimates or invoices to show what the claimed \$1,850 is based upon.
17. Nevertheless, Miss Yi does not dispute the amount YZ claims for its services. Rather, I find Miss Yi's complaint is about the quality of YZ's work. I find the evidence shows that Miss Yi received a municipal permit to build the stairs, based on engineering

plans YZ prepared. Therefore, I find YZ completed the agreed services, and it is entitled to be paid for them. Given Miss Yi does not dispute the amount claimed, I order her to pay YZ \$1,850, subject to the alleged deficiencies, discussed below.

Was YZ's work deficient?

18. Miss Yi claims several deficiencies with YZ's work. As the party alleging deficiencies, Miss Yi bears the burden of proving YZ failed to perform the work in a reasonably competent manner (see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287, at paragraph 61).
19. In general, when a party alleges that a professional was negligent, there must be expert evidence about the professional's standard of care. There are 2 exceptions to this general rule. First, if the alleged breach relates to something non-technical and within the knowledge and experience of the ordinary person, then there is no need for expert evidence. Second, if the breach is so egregious that it is obvious, then expert evidence may not be required (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112). Here, I note that Miss Yi did not provide any expert evidence from another structural engineer about whether YZ's work fell below the standard of a competent engineer.
20. First, Miss Yi says the permit application had to be submitted several times because YZ's drawings did not comply with the *BC Building Code* (Code). YZ's drawings for the initial permit application submitted on April 30, 2019, are not before me. However, the evidence shows the municipality provided notes on Miss Yi's initial application materials, which stated the Code required stairs and washrooms to be completely separated from a garage with gas-sealed, self-closing exterior doors. I infer YZ's drawings did not include such doors. The municipality also noted that the residential zoning required the garage to have a minimum floor area, which Ms. Yi says would not allow her to install a bathroom, contrary to YZ's advice.
21. Miss Yi says YZ then prepared new drawings for the stairs only and re-submitted them for the permit application. The evidence shows the permit was denied again on

June 27, 2019 because not all rooms were properly labelled on the drawings, the Code did not permit a door directly between a bedroom and a garage, and the rise and run of the stairs was not shown on the plans. I infer that YZ made further adjustments to the drawings and re-submitted them, although the amended drawings are also not before me. The evidence shows the municipality ultimately granted Miss Yi a building permit on July 18, 2019.

22. YZ says it provided only structural engineering services, not architectural services. It says the architectural drawings were based on information Miss Yi and her husband provided. I infer it is YZ's position that it was not responsible for architectural details such as Code requirements for building the stairs, or for residential zoning issues. I find expert evidence is required to prove the issues that resulted in the permit application denials were YZ's responsibility, and there is none here.
23. Further, Miss Yi provided no evidence about whether YZ made any representations about how long it would take to obtain a building permit. I find YZ assisted Miss Yi with making the necessary revisions to obtain the permit. Given Miss Yi received the building permit within 2.5 months of the initial application, I find nothing obviously unreasonable about that timeframe. So, on balance, I find Miss Yi has not proven YZ breached the standard of care for a structural engineer in the building permit application process.
24. Miss Yi also alleges that it was impossible to construct the stairs in compliance with the Code, based on YZ's drawings. She says YZ failed to properly measure the space, and the rise and run of the stairs would not fit in the area YZ allotted for them. YZ argues that Miss Yi changed the layout by installing a laundry unit, which resulted in a space shortage.
25. The evidence shows that once Miss Yi's husband finished framing the stairs, a September 13, 2019 municipal framing inspection failed because the "site conditions do not reflect approved drawings". I find this likely means Miss Yi's husband did not build the stairs according to YZ's design. Again, there is no expert evidence proving

that YZ's drawings, which the municipality approved, were incorrect. I find Miss Yi has provided insufficient evidence to show YZ is responsible for the failed inspection.

26. The framing inspection notes also stated that revised drawings had to be submitted for approval. The evidence shows that YZ continued to work with Miss Yi and her husband to try and find a solution based on what they had already built. A further November 21, 2019 frame inspection also failed for various reasons. However, again, I find expert evidence is required to prove that YZ was responsible for any of the issues that resulted in the failed inspection, as it appears many of the issues related to deficiencies in the stairs' construction.
27. Miss Yi claims that during the construction process, she and her husband had to re-build the staircase completely due to YZ's deficient plans. However, she provided no evidence of this. While the evidence shows all the work done under the permit was ultimately reinstated to the original construction, I find Miss Yi has not shown that YZ was responsible for the failed staircase installation. I dismiss Miss Yi's counterclaims.
28. Given my findings, I do not have to address Miss Yi's claimed damages in any detail. However, I note that Miss Yi also provided no evidence of the claimed building materials' cost and garbage disposal fees, such as receipts or invoices. She also provided no evidence about the alleged lost rental income. As noted, the house belongs to Miss Yi's mother, and it is not clear that Miss Yi would be entitled to claim for lost rental income on her mother's behalf. So, even if Miss Yi had shown YZ's work was deficient, I would have dismissed her counterclaims in any event, for failure to prove her damages.
29. The *Court Order Interest Act* applies to the CRT. YZ is entitled to pre-judgement interest on the \$1,850 from April 29, 2021, the date the Dispute Notice was issued to the date of this decision. This equals \$4.62.
30. 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 find YZ is entitled to reimbursement of \$175 in CRT fees.

Because Miss Yi was unsuccessful in her counterclaim, I dismiss her claim for CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

31. Within 30 days of the date of this decision, I order Miss Yi to pay YZ a total of \$2,029.62, broken down as follows:
 - a. \$1,850 in debt for unpaid services,
 - b. \$4.62 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175 in CRT fees.
32. YZ is entitled to post-judgment interest, as applicable.
33. I dismiss Miss Yi's counterclaims.
34. Under section 48 of the CRTA, the CRT will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the CRT's final decision.
35. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Kristin Gardner, Tribunal Member