



# Civil Resolution Tribunal

Date Issued: December 1, 2021

File: SC-2021-000091

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *0955824 B.C. Ltd. v. Athwal Truck & Trailer Repair Ltd.*, 2021 BCCRT 1263

B E T W E E N :

0955824 B.C. LTD. DBA VAN PRO DISPOSAL

**APPLICANT**

A N D :

ATHWAL TRUCK & TRAILER REPAIR LTD. and HARNEK SINGH  
ATHWAL

**RESPONDENTS**

---

## REASONS FOR DECISION

---

Tribunal Member:

Roy Ho

## INTRODUCTION

1. This dispute is about an alleged breach of contract for garbage and debris removal. The applicant, 0955824 B.C. Ltd. dba Van Pro Disposal (Van Pro), says the respondents Athwal Truck & Trailer Repair Ltd. (ATT) and Harnek Singh Athwal failed to perform garbage and debris removal services and in the process damaged a door

to the property Van Pro had been renting. Van Pro says as a result of the respondents' breach of contract, it had to rent the property longer. Van Pro asks for an order that the respondents pay \$800 for garbage and debris removal costs, \$600 for an extra month's rent, and \$200 for the damaged door.

2. The respondents say they fulfilled the parties' contract and did not damage the rental property's door.
3. Van Pro and ATT are each represented by their respective business contacts. Mr. Athwal is self-represented.

## **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.

### ***Late Evidence***

8. Van Pro provided late evidence in this dispute. The respondents did not object and had the opportunity to review the evidence prior to providing submissions. The late evidence is about Van Pro's asbestos abatement certifications, which I find is not relevant to the issues before me. The issues in this dispute, as set out in the Dispute Notice, are whether the respondents breached the parties' contract and whether the respondents damaged property. So, I do not admit Van Pro's late evidence.

### **ISSUES**

9. The issues in this dispute are:
  - a. Did ATT and Mr. Athwal breach its contract for garbage removal service, and if so, what is the appropriate remedy?
  - b. Did ATT and Mr. Athwal damage the rental property's door, and if so, what is the appropriate remedy?

### **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, as the applicant, Van Pro must prove its claims on a balance of probabilities (meaning "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.
11. The parties' contract in evidence shows that Van Pro hired the respondents to dispose of "all material inside the basement and the garage" in a residential property, and for the respondents to "not leave anything except the cardboard only". The respondents also agreed under the contract not to leave any garbage on the property

and not to damage the property. The parties agreed that the respondents would start the clean up on December 28, 2020 and complete it by the next day. I note the parties' contract does not indicate what price the parties agreed to for the respondents' services, including whether the parties agreed to a fixed price or an hourly contract.

12. Based on the photos in evidence, I find that Van Pro hired the respondents to essentially dispose of household items and garbage and housing construction materials and debris.
13. The parties' correspondence in evidence shows that the respondents were at first reluctant to complete the work because the garbage allegedly had asbestos and 4 of their workers had fallen ill. However, the respondents have provided no evidence of this, and I find that this was not the case given that the respondents say that they ultimately fulfilled the contract.
14. As noted, Van Pro says that the respondents did not clean up the property as agreed. Based on the photos in evidence, I agree with Van Pro. Van Pro submitted a lot of photos showing piles and piles of garbage, albeit mixed with cardboard, throughout various places on and in the property. The respondents do not dispute that these photos show the property after they had completed their work. Instead, the respondents say that they left "garbage piles as neat as possible" and "because it was a rainy day [the garbage] would have been scattered". The respondents say that they had to leave garbage piles because Van Pro had failed to provide a garbage bin for them. However, I agree with Van Pro that the parties never contracted for Van Pro to provide a garbage bin. Based on the parties' contract, I find that garbage removal was the respondents' sole responsibility.
15. The respondents provided a few photos from various spots in and around the property to say that they had cleaned the property. However, I find these photos unhelpful as they do not show the entire property the respondents were hired to clean. While the respondents say they have a video showing that they cleaned the entire property, they have not submitted it in evidence. I find it is appropriate here to draw an adverse inference against the respondents for failing to provide the video. An adverse

inference may be appropriate when a party fails to provide relevant evidence without a good explanation. I find the video is clearly relevant evidence and the respondents have provided no explanation about why it did not submit the video in evidence.

16. For all the above reasons, I find that the respondents breached the parties' contract. I turn next to Van Pro's claimed damages.

### ***\$800 garbage removal costs***

17. Van Pro says they hired another company costing it \$800 to complete the garbage removal. However, I find Van Pro is not entitled to reimbursement for this amount. Van Pro has submitted no evidence showing that it had paid the respondents any money for their services. I find awarding this claim would result in an unjust enrichment or a windfall to Van Pro. In other words, ordering the respondents to pay Van Pro \$800 would mean that Van Pro would have had the garbage removed for free at the respondents' expense. Also, as noted, there is no evidence about the amount the parties agreed to, including whether the contract for service was fixed price or hourly. For these reasons, I dismiss this aspect of Van Pro's claim.

### ***\$600 additional rent***

18. Van Pro says that due to the respondents' failure to perform on the contract, it had to rent the property longer in order to clean up the garbage. In support, Van Pro submitted a signed statement from its landlord showing that Van Pro had paid \$600 rent for January 2021. However, I find that Van Pro has not proven that it paid \$600 in rent due to the respondents' failure to clean the garbage. I have no evidence showing that Van Pro's tenancy ended in December 2020, such as a tenancy agreement. The landlord's signed statement also does not suggest that Van Pro paid it rent to extend Van Pro's tenancy. The landlord's statement merely confirms that Van Pro paid \$600 rent for the month of January 2021. I am unable to conclude that this \$600 rent was not for Van Pro's continued tenancy. For this reason, I dismiss this aspect of Van Pro's claim.

### ***\$200 for the damaged door***

19. Van Pro says that the respondents damaged a door while cleaning the property. The respondents deny that they broke the door and say it was already broken when they arrived on the property. However, when Van Pro asked the respondents about the broken door, they did not deny that they broke the door but instead said in a text message, "...you took the keys for the rear door how do you expect me to open the doors?" Based on this text message, I find it more likely than not that the respondents broke the door. I find that if the door was already damaged as alleged, the respondents would have raised this issue with Van Pro at the outset instead of suggesting that they had no choice but to use force to enter the property. Therefore, I find they are responsible to reimburse Van Pro for the damage.
20. Van Pro submitted 2 photos and a December 30, 2020 invoice for the door repair. The first photo shows a damaged latch guard, but with the lock and door appearing undamaged and intact. The second photo shows 2 padlocks locking a latch, which Van Pro says was to secure the broken door. Van Pro's invoice says it cost \$210 including GST to "Repair a door". While it is unclear why Van Pro did not claim the GST, I am satisfied that the \$200 amount Van Pro claims is reasonable and award it as claimed.
21. The *Court Order Interest Act* applies to the CRT. Van Pro is entitled to pre-judgment interest on the \$200 from December 30, 2020, the date of the contract's breach to the date of this decision. This equals \$0.83.
22. 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. I find Van Pro was partially successful, and so is entitled to reimbursement of half its paid CRT fees, which equals \$75. As the respondents were not successful, I dismiss their \$50 CRT fee claim. Neither party claimed any dispute-related expenses.

## ORDERS

23. Within 30 days of the date of this order, I order the respondents to pay Van Pro a total of \$275.83, broken down as follows:
  - a. \$200 in damages as reimbursement for the door's repair,
  - b. \$0.83 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$75 in CRT fees.
24. Van Pro is entitled to post-judgment interest, as applicable.
25. I dismiss Van Pro's remaining claims.
26. I dismiss the respondents' claim for \$50 in CRT fees.
27. 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.
28. 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.

---

Roy Ho, Tribunal Member