



Civil Resolution Tribunal

Date Issued: December 8, 2021

File: SC-2021-003189

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Awcsit Construction Ltd. v. Dhatt*, 2021 BCCRT 1287

BETWEEN:

AWCSIT CONSTRUCTION LTD.

APPLICANT

AND:

MEHAR SINGH DHATT

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about payment for drywall and fire stop services. The applicant, Awcsit Construction Ltd. (Awcsit), says the respondent, Mehar Singh Dhatt, failed to pay its invoice for materials and services rendered. Awcsit claims \$4,116.

2. Mr. Dhatt says he contracted with Youngboy Drywall, and he is unfamiliar with Awcsit. In submissions, Mr. Dhatt acknowledges the contract was with Awcsit, though says he only talked to Youngboy Drywall. In any event, Mr. Dhatt says the drywall and fire stop services were not fully completed and caused him to fail a municipal framing inspection. Mr. Dhatt denies he owes Awcsit anything.
3. Awcsit is represented by a principal or employee. Mr. Dhatt is represented by a family member who is not a lawyer.

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. Did Mr. Dhatt contract with Awcsit for drywall and fire stop services?
 - b. If so, did Awcsit leave the job incomplete?
 - c. To what extent does Mr. Dhatt owe Awcsit the claimed \$4,116 for materials and services rendered, if any?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant Awcsit must prove its claims on a balance of probabilities. I note that Awcsit did not submit any reply submissions, despite having the opportunity to do so. I have read all the parties' evidence and submissions, but I refer only to what is necessary to explain my decision.
10. As noted, Mr. Dhatt says he talked to "Youngboy Drywall" about doing drywall and fire stop work on his home construction. Mr. Dhatt suggests that the owner of "Youngboy Drywall" may have also been working for Awcsit. In any event, in his submissions, Mr. Dhatt acknowledges that the contract he agreed to states it is with Awcsit.
11. The parties both provided a copy of a June 19, 2019 Contract/Quotation prepared by Awcsit (quote). The quote names Mr. Dhatt as the contractor and client. The quote includes drywall materials (\$7,875), fire stop (\$2,000), boarding (\$3,431), and taping (\$4,194), totalling \$17,500 plus GST (\$18,375). It is signed by both Mr. Dhatt and an authorized person from Awcsit.

12. There is no further evidence before me about who Youngboy Drywall is or that entity's relationship to Awcsit. So, based on the signed quote in evidence, I find that Mr. Dhatt contracted with Awcsit for the drywall and fire stop work.
13. I turn to consider whether Mr. Dhatt owes Awcsit for unpaid work.
14. Awcsit says it asked Mr. Dhatt to advise when his project was ready for fire stop services, but that Mr. Dhatt did not call until "rough ins" had already been completed. Awcsit says when it arrived, it discovered Mr. Dhatt had failed to install vapour barrier behind the insulation, which caused Awcsit to waste time, labour, and materials. Mr. Dhatt does not particularly deny these allegations, so I find they are likely true. Awcsit also says due to the extra work, it was unable to complete the fire stop work before the scheduled framing inspection, but Mr. Dhatt went ahead with the inspection anyway.
15. Awcsit does not dispute that the July 19, 2019 inspection failed, but denies it is responsible. It says Mr. Dhatt then called and wanted the job completed immediately, but Awcsit was unavailable that day. Awcsit says it returned to the job site the next day, but Mr. Dhatt had already hired someone else.
16. Awcsit says it claims only for the materials and labour it completed on Mr. Dhatt's project. Awcsit provided a July 26, 2018 invoice. I infer the date is incorrect and the year should have stated 2019. The invoice describes fire stop, boarding, and taping done in the basement (\$2,950), and fireplace drywall and fire stop on the main floor (\$350), all totalling \$3,675 including GST.
17. Awcsit did not explain the difference between its July 26 invoice and the claimed \$4,116. However, in submissions Awcsit says it had done work totalling \$3,675 before Mr. Dhatt hired someone else. Based on this submission, I find Awcsit reduced its claim to its \$3,675 invoice.
18. It is unclear on what basis Mr. Dhatt says he should not have to pay Awcsit's invoice. While he says Awcsit was supposed to finish the job before the scheduled inspection, I find the quote does not state when the work was to start or finish. Further, I find

there is insufficient evidence before me to conclude that Awcsit was responsible for any alleged delay in completing the fire stop work before the inspection. Mr. Dhatt does not allege that Awcsit's work was substandard, just that it was not finished. Mr. Dhatt says Awcsit did not return his calls, so he had to hire a new contractor to complete the drywall and fire stop work.

19. Mr. Dhatt did not provide the dates he said he called Awcsit to complete the job or say exactly how long he waited before hiring someone else. He says only that "once the 30 days on the contract were over" he did what he had to do. I infer that Mr. Dhatt is referring to Awcsit's quote, which stated the offer was valid for 1 month from the quote's June 19, 2019 date. However, I find that statement refers to the amount quoted being valid for 30 days. I find it does not mean that once the parties agreed to the quote, their contract "expired" after 30 days.
20. Given Mr. Dhatt's evidence, I find he likely hired someone else to complete the drywall and fire stop work the day after the July 19, 2019 inspection, as that was 30 days after the June 19 quote. In other words, I accept Awcsit's evidence that within one day of Mr. Dhatt asking it to complete the job after the inspection, Mr. Dhatt had already hired someone else to do the work. Under the circumstances, I do not accept Mr. Dhatt's evidence that Awcsit failed to complete the job according to their contract. Rather, I find that Mr. Dhatt did not give Awcsit a reasonable opportunity to complete the job. Therefore, I find Awcsit did not breach the contract and it is entitled to be paid for the work it completed.
21. I find Awcsit's \$18,375 quote constituted a fixed price contract. The job was undisputedly not completed. However, I am satisfied that Awcsit partially completed the job, so I find it claims for what is known in law as '*quantum meruit*', meaning value for the work done. As noted, Awcsit expressly only claims payment for work it says it completed.
22. The parties provided limited evidence of Awcsit's completed work as compared to what they contracted for. The quote did not set out the project's anticipated length or

scope, in terms of the number of rooms it covered. The invoice also did not separate the amounts allocated to materials and labour.

23. However, Mr. Dhatt does not dispute that Awcsit did the work described in its July 26 invoice. I accept Awcsit's evidence that it started the job 4 days before the scheduled inspection, which Mr. Dhatt also did not dispute. Therefore, I find Awcsit likely completed approximately 4 days of work on the project. Based on the parties' submissions, I find that the focus of Awcsit's work was likely the fire stopping, which the quote valued at \$2,000. I find the fire stopping work was likely largely completed, as the inspection report refers to minimal unfinished fire stop work.
24. Awcsit's invoice also states that some boarding and taping work was done. The quote provides a \$7,625 total value for boarding and taping, so Awcsit's invoice suggests the bulk of that work was not completed. I also note that Mr. Dhatt submits Awcsit did not deliver the drywall, other than 2 sheets for the fire stop work. Awcsit does not dispute this. On balance, I find Awcsit likely did not provide most of the drywall materials, which constituted a large portion of Awcsit's quote (\$7,875).
25. Overall, I place significant weight on the fact that Mr. Dhatt does not argue that the amount of Awcsit's July 26 invoice was unreasonable for the amount of work Awcsit completed. Considering the total value of the fixed-price contract (\$18,375) and the factors noted above, on a judgment basis, I find Awcsit's July 26 invoice for \$3,675 represents a reasonable value for the work it completed over 4 days. I find Mr. Dhatt must pay Awcsit that amount.
26. Awcsit claims interest on the amount owing under the *Court Order Interest Act* (COIA). However, I note that the signed quote in evidence states that overdue accounts are subject to a 2% per month (24% per annum) service charge. I find this constitute an agreement between the parties about interest. Section 2(b) of the COIA says interest under the COIA does not apply where the parties have an agreement about interest. Therefore, I find COIA interest does not apply here, and I dismiss Awcsit's claim to COIA interest.

27. 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 Awcsit was substantially successful and is entitled to reimbursement of \$200 in paid CRT fees. Awcsit did not claim any dispute-related expenses.

ORDERS

28. Within 30 days of the date of this decision, I order Mr. Dhatt to pay Awcsit a total of \$3,875, broken down as follows:

- a. \$3,675 in debt for unpaid services, and
- b. \$200 in CRT fees.

29. Awcsit is entitled to post-judgment interest, as applicable.

30. 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.

31. 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