



# Civil Resolution Tribunal

Date Issued: December 16, 2021

File: SC-2021-004337

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Lambden (dba Gnome and Gardens Organic Landcare) v. Noble*,  
2021 BCCRT 1314

B E T W E E N :

CHRISTOPHER LAMBDEN (Doing Business As GNOME AND  
GARDENS ORGANIC LANDCARE)

**APPLICANT**

A N D :

DEBORAH NOBLE also known as DEBBIE NOBLE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr

## INTRODUCTION

1. This is a dispute about landscaping invoices. Christopher Lambden, who does business as Gnome and Gardens Organic Landcare, claims that Deborah Noble (also known as Debbie Noble) owes him \$1,821.53 for landscaping he did at her home

between July 2020 and February 2021. Ms. Noble says that she already paid what the parties agreed to. She asks that I dismiss Mr. Lambden's claims.

2. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.
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 pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.

## **ISSUES**

7. The issue in this dispute is how much, if anything, Ms. Noble owes Mr. Lambden for landscaping services.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, Mr. Lambden as the applicant must prove his case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
9. Mr. Lambden provided landscaping services for Ms. Noble on a regular basis until February 2021. Mr. Lambden says that the following 4 invoices were either not paid or not fully paid:
  - a. July 2020 invoice for \$1,214.07, less a \$1,079.21 payment, leaving a \$134.86 balance.
  - b. August 2020 invoice for \$1,910.10, less a \$786.49 payment, leaving a \$1,123.61 balance.
  - c. January 2021 invoice for \$267.75.
  - d. February 2021 invoice for \$295.31.
10. The main dispute between the parties is whether Ms. Noble made a \$1,134.86 payment on August 24, 2020, by e-transfer. Mr. Lambden says that he never received it. He says that he received all of her other e-transfers without issue, including a separate \$3,000 transfer that she also sent on August 24, 2020. While Mr. Lambden accepts that Ms. Noble attempted to send the e-transfer at issue, he says that she must have used the wrong email address.
11. Mr. Lambden provided a portion of both his paper bank statement and his online banking records. These records show the \$3,000 e-transfer from Ms. Noble on August 24, 2020. The transactions before and after that \$3,000 e-transfer are e-

transfers from other clients on August 21 and 27, respectively. Mr. Lambden says that he has set up auto-deposit for e-transfers, which Ms. Noble knew because she had to tick a box before sending any e-transfers acknowledging the auto-deposit. Ms. Noble does not dispute this, so I accept that it is true. So, if Ms. Noble had sent the e-transfer to him on August 24, 2020, I find that he would have received it the same day. The banking evidence shows that he did not.

12. For her part, Ms. Noble insists that she used the correct email address. She provided a line from her online banking that shows a \$1,134.86 e-transfer on August 24, 2020, to a recipient referred to as “Gnome”. The record does not show what email address the e-transfer went to, so I find that it does not prove that she sent the e-transfer to the correct email address. Ms. Noble failed to provide any evidence that showed the actual email address she sent the e-transfer to, such as a more detailed bank record or email receipt.
13. Given that Mr. Lambden provided evidence showing that he did not receive the e-transfer on August 24, 2020, and Mr. Noble provided no evidence showing that she sent it to the correct email address, I find it more likely than not that she sent it to the wrong email address.
14. Ms. Noble does not raise any other issues with the amount Mr. Lambden claims. She does not dispute any of the invoices or the quality of his work. I therefore find that she owes Mr. Lambden the claimed amounts. I order Ms. Noble to pay Mr. Lambden \$1,821.53.
15. The *Court Order Interest Act* (COIA) applies to the CRT. I note that the invoices in evidence said that overdue invoices would be charged 24% annual interest, but there is no evidence that Ms. Noble agreed to this. Mr. Lambden did not claim contractual interest in his Dispute Notice. Absent an agreement about interest, Mr. Lambden is entitled to pre-judgment interest under the COIA on each of the outstanding invoices. This equals \$9.49.

16. 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 that Mr. Lambden is entitled to reimbursement of \$125 in CRT fees. He did not claim any dispute-related expenses.

## **ORDERS**

17. Within 30 days of the date of this order, I order Ms. Noble to pay Mr. Lambden a total of \$1,956.02, broken down as follows:
- a. \$1,821.53 in debt,
  - b. \$9.49 in pre-judgment interest under the COIA, and
  - c. \$125 for CRT fees.
18. Mr. Lambden is entitled to post-judgment interest, as applicable.
19. 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.
20. 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.

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Eric Regehr, Tribunal Member