



Civil Resolution Tribunal

Date Issued: January 11, 2022

File: SC-2021-005444

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Tweet (dba Slate Valley Roofing) v. Hordell*, 2022 BCCRT 27

B E T W E E N :

DAVID TWEET (Doing Business As SLATE VALLEY ROOFING)

APPLICANT

A N D :

MAUREEN HORDELL and KARL SCHAER

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about payment for roof repair work. The applicant roofer, David Tweet (dba Slate Valley Roofing), says the respondents, Maureen Hordell and Karl

Schaer, have failed to pay for roofing work he completed at their request and in accordance with an agreed upon \$2,800 quote. Mr. Tweet claims \$1,666 as the remaining balance for his completed work.

2. The respondents say there was no enforceable contract because there was no 'meeting of the minds' about the scope of the job and the cost. The respondents say they did not agree to the quoted fixed price of \$2,800 plus tax, saying the work was completed by 2 crew members in less than 7 hours. The respondents also argue the \$2,800 quote was excessive and that they were in a vulnerable state when they hired Mr. Tweet. They say they owe him nothing further.
3. Mr. Tweet is self-represented. The respondents are represented by a lawyer, Douglas Chiasson.

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). 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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find I can fairly hear this dispute based on the submitted evidence and through written submissions.
6. Under CRTA section 42, 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 CRTA section 118, in resolving this dispute the CRT may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.
8. The respondents allege Mr. Tweet harassed them after his attempts to collect payment were unsuccessful. I make no findings about this, as there is no counterclaim and because there is no recognized tort of harassment in BC (see *Total Credit Recovery v. Roach*, 2007 BCSC 530). In any event, I find those allegations irrelevant to the issue of whether the respondents owe Mr. Tweet for the roofing work as claimed.

ISSUES

9. The issues are whether:
 - a. The parties had an enforceable contract and if so, what were its terms, and
 - b. Mr. Tweet is entitled to the claimed \$1,666 for his roofing work or some other amount.

EVIDENCE AND ANALYSIS

10. In a civil claim like this one, as the applicant Mr. Tweet has the burden of proving his claims, on a balance of probabilities (meaning “more likely than not”). I have only referenced below what I find is necessary to give context to my decision.
11. As set out in my reasons below, I find the parties agreed to a fixed-price quote of \$2,800 for Mr. Tweet’s roofing repair work. This conclusion is supported by Mr. Tweet’s text messages in evidence with Ms. Hordell. In them, following Ms. Hordell’s request for a quote, Mr. Tweet itemized the job and tools he would use and wrote “the cost is \$2,800 + gst. Please advise at your earliest convenience”.

While there is no evidence the parties later entered into a formal written contract, I find Ms. Hordell clearly texted Mr. Tweet instructions to proceed with the roofing job in response to his text with the \$2,800 quote. I do not accept the respondents' assertion there was no "meeting of the minds" about the pricing. I find Mr. Tweet's text clear, and Ms. Hordell chose to accept it on behalf of the respondents.

12. Next, I do not accept the respondents agreed to the quote under duress, to the extent the respondents allege this.
13. Duress is a defence to the enforceability of a contract. To establish duress, the respondents must show that 1) Mr. Tweet exerted pressure to such a degree that their true consent did not exist, and 2) there was an improper or illegitimate element to the pressure: see *Dairy Queen Canada, Inc. v. M.Y. Sundae*, 2017 BCCA 442.
14. The factors the courts (and the CRT) weigh related to the first issue of coercion or consent include:
 - a. Did the person object,
 - b. Did the person have an alternative course available, such as an adequate legal remedy,
 - c. Did the person receive independent advice, and
 - d. Did the person take steps to avoid the contract?
15. I find the parties' text messages in evidence do not support there was any duress when the contract was made. While I accept the respondents wanted their leaking roof fixed quickly, that does not mean they did not truly consent to Mr. Tweet's quote. There is no evidence they ever objected before the work was done. By their own evidence, they could have found other roofers to do the work. There is also no evidence they took any steps to avoid the contract, and instead pressed Mr. Tweet to proceed.
16. In particular, Ms. Hordell texted Mr. Tweet on June 8, 2021 and again some days later politely inquiring about timing following a new leak. Mr. Tweet responded that

their job would start the next day and would be done in the next week. There is no evidence that Ms. Hordell expressed any concern about the timing or the price. It is undisputed Mr. Tweet then completed the roofing job without any concern expressed by the respondents about the contract's terms or about the quality of the work.

17. The fact that other roofers may have done the job for less or under an hourly rate agreement is also not determinative. What matters is that the respondents agreed to the \$2,800 quote and have not proved they did so under duress. I find they are bound to the terms of that agreement. I also find there is nothing obviously excessive about the \$2,800 quote, and note it is ultimately close to the hourly rate quote submitted by the respondents.
18. Given the work was a fixed-price job, contrary to the respondents' assertion, I find Mr. Tweet had no obligation to justify how much he spent on materials or labour. In other words, Mr. Tweet had no obligation to deliver a "detailed bill" breaking down his hourly rate or costs. Again, this was not an hourly rate job.
19. I note Mr. Chiasson says the respondents rely on the decision in *Exclusive Flor Sales Limited v. Fipke*, 2010 BCSC 1265, though he does not say for what proposition. In *Exclusive*, the dispute was about a failed installation of tiling work. In that case, the defendant paid the plaintiff the \$31,000 originally quoted, but the plaintiff sought \$18,000 more on the basis the job turned out to be more complex. In turn, the defendant counterclaimed based on defects. *Exclusive* is not helpful to the respondents, because in the matter before me there are no allegations about roofing defects, nor does Mr. Tweet seek more than the original quote. Further, in *Exclusive*, the quote was framed as a "proposal amount" based on not having seen the job, whereas here Mr. Tweet did a site inspection and his quote set out what it would "cost" the respondents. I find *Exclusive* has no bearing on this CRT dispute.
20. Mr. Tweet's initial invoice, dated June 16, 2021, was for \$2,800 plus \$140, for a total of \$2,940. I find this is consistent with the agreed upon price as set out in the

quote that Ms. Hordell accepted. Given my conclusion this was a fixed-price contract for \$2,800 plus GST, I find Mr. Tweet is entitled to payment of his invoice.

21. The undisputed evidence shows the respondents paid Mr. Tweet only \$1,274. After deducting this amount from the \$2,940 invoice, this leaves the claimed \$1,666. I order the respondents to pay the \$1,666, noting it is undisputed both respondents hired Mr. Tweet even though Ms. Hordell was the primary contact.
22. The *Court Order Interest Act* (COIA) applies to the CRT. I find Mr. Tweet is entitled to pre-judgment interest under the COIA on the \$1,666, from the June 16, 2021 invoice date to the date of this decision. This interest equals \$4.30.
23. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Mr. Tweet was successful, so I allow his claim for reimbursement of \$125 in paid CRT fees. No dispute-related expenses were claimed.

ORDERS

24. Within 30 days of this decision, I order the respondents to pay Mr. Tweet a total of \$1,795.30, broken down as follows:
 - a. \$1,666 in debt,
 - b. \$4.30 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
25. Mr. Tweet is entitled to post-judgment interest, as applicable.
26. Under CRTA section 48, 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.

27. Under CRTA section 58.1, the Provincial Court of British Columbia can enforce a validated copy of the CRT's order. 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 a Provincial Court of British Columbia order.

Shelley Lopez, Vice Chair