



Civil Resolution Tribunal

Date Issued: January 13, 2022

File: SC-2021-003343

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *M.J. Window Ltd. v. Kalsi*, 2022 BCCRT 50

B E T W E E N :

M.J. WINDOW LTD.

APPLICANT

A N D :

RAJINDER KALSI

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about payment for a custom residential window order. The applicant window supplier, M.J. Window Ltd. (MJW), claims it supplied and installed 4

windows to the respondent, Rajinder Kalsi. MJW claims \$1,995 as the outstanding balance for its work.

2. Mr. Kalsi denies MJW installed any windows. He says when MJW's installers arrived, Mr. Kalsi realized that the window design was not as he ordered. Mr. Kalsi says the windows did not fit and so MJW's crew took the windows back at his request.
3. MJW is represented by an employee or principal, ML. Mr. Kalsi 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). 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.

ISSUE

8. The issue is whether MJW is entitled to \$1,995 as the outstanding balance for its alleged custom window work for Mr. Kalsi.

EVIDENCE AND ANALYSIS

9. In a civil claim like this one, as the applicant MJW has the burden of proving its 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. I note MJW submitted no evidence and provided no written submissions for this decision, despite opportunities to do so.
10. The evidence before me is limited. That said, it is undisputed Mr. Kalsi hired MJW to supply and install custom windows for his home. Some of the windows had an oval shape to them. Mr. Kalsi submitted photos, which I find unhelpful in assessing whether the windows were defective. However, Mr. Kalsi’s submission the windows were defective and not as ordered is unchallenged because MJW chose not to submit evidence or provide submissions as noted. So, I accept Mr. Kalsi’s submission that the supplied windows were defective and in breach of the parties’ contract. Similarly, I accept Mr. Kalsi’s undisputed submission that MJW did not in fact install any of the custom windows.
11. Further, Mr. Kalsi submitted a copy of a July 2021 BC Provincial Court (BCPC) Order, for a proceeding in which Mr. Kalsi was the claimant and MJW the defendant, that ordered MJW to pay Mr. Kalsi \$1,547.75. Mr. Kalsi says this was a refund of his paid deposit to MJW, which I accept because again it is undisputed. Mr. Kalsi also submitted a July 10, 2021 cheque made out to him for \$1,547.75, which has ML’s name on it, not MJW’s. I find it likely that the BCPC ordered the \$1,547.75 payment because it found MJW had not supplied and installed the windows as required under the parties’ contract. This does not support MJW’s claim that it is owed further money under the contract.

12. MJW started this CRT dispute in May 2021. I considered whether I ought to refuse to resolve this dispute under CRTA section 11, on the basis the BCPC is a more appropriate forum. I decline to do so, for the following reasons. First, in the BCPC proceeding Mr. Kalsi was the claimant seeking a refund of his paid deposit, whereas in this CRT dispute MJW is the applicant seeking payment of its invoice balance. Second, based on the BCPC Order in evidence, the BCPC proceeding concluded in July 2021 with the payment order against MJW to refund Mr. Kalsi the deposit.
13. So, on balance, I find there is no likely overlap between this CRT dispute and a BCPC proceeding and so no opportunity for inconsistent findings of fact. Further, MJW's debt claim clearly falls within the CRT's \$5,000 monetary limit for small claims matters. Finally, none of the parties argues the BCPC is a more appropriate forum. I find it appropriate and proportionate for the CRT to adjudicate this dispute. Since MJW has essentially abandoned its position by providing no evidence or submissions, and given the undisputed evidence I have accepted above, I dismiss its claim.
14. 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. As MJW was unsuccessful, I dismiss its claim for reimbursement of paid CRT fees. Mr. Kalsi did not pay CRT fees. No dispute-related expenses were claimed.

ORDER

15. I dismiss MJW's claims and this dispute.

Shelley Lopez, Vice Chair