



Civil Resolution Tribunal

Date Issued: January 20, 2022

File: SC-2021-004439

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sharene Orstad Law Corporation dba Orstad Law v. Park*,
2022 BCCRT 73

B E T W E E N :

SHARENE ORSTAD LAW CORPORATION DBA ORSTAD LAW
APPLICANT

A N D :

MIJIN PARK
RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. This dispute is about payment for legal services. Sharene Orstad Law Corporation dba Orstad Law is a law firm. Mijin Park hired Orstad Law to help with 2 separate lawsuits. Orstad Law says that Mrs. Park owes it \$1,781.53 in legal fees and disbursements. Mrs. Park says that Orstad Law overcharged her.

2. Orstad Law is represented by an employee, who is an articulated student. Mrs. Park is 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. 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.
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, Mrs. Park owes Orstad Law.

EVIDENCE AND ANALYSIS

8. In a civil claim such as this, Orstad Law as the applicant must prove its 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. The background facts are undisputed. Mrs. Park hired Orstad Law in November 2020 to assist with 2 ongoing lawsuits. An associate lawyer at Orstad Law, Andrew Peng, represented Mrs. Park in a BC Supreme Court hearing in one of the lawsuits in November and December 2020. The court made its decision in February 2021, and Mrs. Park was not successful. Orstad Law's principal lawyer, Sharene Orstad, helped Mrs. Park file a Notice of Appeal in March 2021. Orstad Law did not represent her further after that.
10. There is no evidence of a written retainer agreement. Neither party provided any evidence of the terms of the parties' retainer agreement.
11. It is undisputed that Mrs. Park paid a total of \$7,500 towards Orstad Law's legal services throughout its representation of her. Orstad Law billed her a total of \$9,281.53, leaving an unpaid balance of the claimed \$1,781.53.
12. The outstanding amount that Orstad Law claims can be broken into 2 parts.
13. The first part relates to 2 invoices that Orstad Law sent Mrs. Park on January 28, 2021, which totaled \$1,702.40. At that time, Mrs. Park had an outstanding balance owing on a previous invoice of \$1,078.96, for a total amount owing of \$2,781.36. By February 17, 2021, Mrs. Park had paid \$2,500 towards these invoices, leaving a balance owing of \$281.36.
14. The second part relates to Orstad Law's final invoice of \$1,500.17, which it sent Mrs. Park on March 24, 2021. Mrs. Park refused to pay this final invoice, claiming that she was overcharged. She demanded Orstad Law send details of all of its invoices. Orstad Law sent Mrs. Park an email on March 30, 2021, which I find included all of its invoices.

15. I will address the \$281.36 first. In a March 31, 2021 email, Mrs. Park agreed that she owed this amount and said that it was the \$1,500.17 charge that she found “highly questionable”. Mrs. Park does not say anything specific about the \$281.36 in her submissions in this dispute. I find that her March 31, 2021 admission is binding. On that basis, I find that she owes Orstad Law this \$281.36.
16. I turn then to the final invoice. This invoice included 2.3 hours of Mr. Peng’s work, which included a phone call with Mrs. Park and drafting an amended Notice of Civil Claim. According to the invoice, Mr. Peng’s hourly rate was \$200. The invoice also included 1.5 hour of Ms. Orstad’s work, which included emails and telephone calls and drafting appeal materials. According to the invoice, Ms. Orstad’s hourly rate was \$375. The remaining charges were for taxes and disbursements related to filing and serving the appeal materials. Orstad Law provided receipts to prove these disbursements, and Mrs. Park does not specifically dispute them.
17. Mrs. Park says that Orstad Law should have provided all of the materials the 2 lawyers prepared as evidence in this dispute to prove that the charges were reasonable. I disagree. Bearing in mind the CRT’s mandate that includes proportionality, I find that the invoice in dispute is detailed enough for me to conclude that the charges were reasonable. There is no dispute about the quality of Orstad Law’s work. Mrs. Park does not say that Orstad Law failed to complete any of the work it billed for. I note that Mrs. Park argues that she should not have to pay for any time Ms. Orstad spent arguing with Mrs. Park about the outstanding invoices or Mrs. Park picking up her client file. Based on the invoice and the timing of the emails in evidence, I find that Ms. Orstad did not charge for this time.
18. The difficulty with the final invoice is Ms. Orstad’s higher hourly rate. As mentioned above, there is no retainer agreement in evidence. I find that by paying Orstad Law’s previous invoices, Mrs. Park agreed to Mr. Peng’s hourly rate of \$200. This is because the terms of a contract can be implied by the parties’ past conduct. See my previous decision *Dale E. Perry Law Corporation et al v. Atlin Heli Sports Ltd.*, 2019 BCCRT 590. However, Ms. Orstad had not done any billable work on these previous

invoices, so there is no evidence that Mrs. Park ever agreed to pay her higher \$375 hourly rate. While I accept that it is customary for senior lawyers to charge higher hourly rates than junior lawyers, I find that this custom does not prove that Mrs. Park agreed to Ms. Orstad's hourly rate. With that, I find that Orstad Law is only entitled to \$200 per hour for Ms. Orstad's work. I therefore reduce Orstad Law's final invoice by \$294.01, which is the \$262.50 difference in the 2 hourly rates plus GST and PST, leaving an amount owing on that invoice of \$1,206.16.

19. In summary, I find that Orstad Law has proven that it is entitled to \$1,487.52, and I order Mrs. Park to pay this amount.
20. The *Court Order Interest Act* (COIA) applies to the CRT. Orstad Law is entitled to pre-judgment interest on the \$281.36 from January 28, 2021, and on the \$1,206.16 from March 24, 2021, to the date of this decision. This equals \$5.73.
21. 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. Orstad Law was partially successful, so I find it is entitled to reimbursement of half of its \$125 in CRT fees, which is \$62.50. Orstad Law did not claim any dispute-related expenses. Mrs. Park did not pay any CRT fees or claim any dispute-related expenses.

ORDERS

22. Within 30 days of the date of this order, I order Mrs. Park to pay Orstad Law a total of \$1,555.75, broken down as follows:
 - a. \$1,487.52 in debt,
 - b. \$5.73 in pre-judgment interest under the COIA, and
 - c. \$62.50 for CRT fees.
23. Orstad Law is entitled to post-judgment interest, as applicable.

24. 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.
25. 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.

Eric Regehr, Tribunal Member