



Civil Resolution Tribunal

Date Issued: February 3, 2022

File: SC-2021-005861

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *McLaren v. Monaro Marine Ltd.*, 2022 BCCRT 130

B E T W E E N :

BRUCE MCLAREN

APPLICANT

A N D :

MONARO MARINE LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. The applicant, Bruce McLaren, hired the respondent, Monaro Marine Ltd. (Monaro), to manufacture a replacement fiberglass roof cap for his 1992 Volkswagen Syncro van. Mr. McLaren says Monaro changed the roof cap design without advising him that it would be significantly smaller and would require additional finishing work. Mr. McLaren says Monaro charged him more than its estimate and he had to pay another

shop to complete the additional finishing work. Mr. McLaren claims \$2,049.90 for the amount he spent on the roof cap above Monaro's estimate.

2. Monaro says Mr. McLaren knew the roof cap would be smaller than originally discussed and would require additional finishing work. Monaro says it properly charged Mr. McLaren for the work done, and it is not responsible for any additional finishing work costs. Monaro says it does not owe Mr. McLaren anything.
3. Mr. McLaren is self-represented. Monaro is represented by its owner, Dan Parker.

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.

ISSUE

8. The issue in this dispute is to what extent, if any, is Mr. McLaren entitled to a refund of the amount he paid for the roof cap replacement, above Monaro's quote?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant Mr. McLaren must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' evidence and submissions, but I refer only to what I find is necessary to explain my decision.
10. In early 2021, Mr. McLaren approached Monaro about constructing a mold and using it to manufacture a fiberglass roof cap for his van. Mr. McLaren provided Monaro with drawings for the roof cap design that he had created together with a third-party mechanic, W1. Monaro initially quoted \$3,900 for the mold, plus \$975 to fabricate the requested fiberglass roof cap, but Mr. McLaren advised Monaro that the quote was over his budget. None of this is disputed.
11. Mr. McLaren says Monaro later verbally quoted him a lower amount for a revised roof cap, based on a different method of attaching the cap to Mr. McLaren's van. The evidence before me shows Monaro confirmed its quote in a May 3, 2021 email to Mr. McLaren, which stated the price to fabricate a mold for a fiberglass roof with certain specifications was \$2,400, and to make one fiberglass part from the mold was \$975, with all taxes extra. Mr. McLaren undisputedly agreed to the quote and paid Monaro a \$1,000 deposit.
12. Mr. McLaren says Monaro did not explain that its revised roof cap design would be significantly smaller than the original design. He says the original design would have

covered fastening holes left from rails on the existing cap, but the smaller cap meant the holes had to be filled and painted at extra cost. Mr. McLaren says other finishing work, such as modifying an air deflector and painting the upper roof area, was also required due to the smaller roof cap. Mr. McLaren says Monaro did not advise him of these extra expenses before he agreed to the revised quote.

13. Monaro acknowledges that it did not provide Mr. McLaren with precise dimensions for the revised roof cap. However, it says Mr. McLaren would have known the approximate size because they discussed how the revised roof cap was going to be attached to a vertical flange surrounding the roof opening. Monaro says Mr. McLaren was aware that the existing rails would have to be removed and the revised roof cap would not cover the fastening holes, so they would need to be filled.
14. I agree with Mr. McLaren that Monaro's May 3, 2021 quote does not mention any additional labour costs for finishing work required due to the new design. Rather, the quote included only the cost to create a mold and fabricate one roof cap from the mold. However, I do not accept that Mr. McLaren was completely unaware that the revised roof cap design would be smaller. Mr. McLaren acknowledges Monaro "fully communicated" the new method of attaching the roof cap to him. Based on this knowledge, and the significantly lower quote for the new design, on balance, I find Mr. McLaren likely knew that the revised roof cap would be smaller than originally discussed.
15. Further, the evidence shows Monaro emailed Mr. McLaren on May 5, 2021 to advise it had sprayed the gel in the mold for the new cap, and it was working on filling the holes on the roof from the rails. Mr. McLaren's response does not suggest he was at all surprised that the holes required filling, which I would have expected had Mr. McLaren been unaware that such finishing work would be necessary. I note it is undisputed that Mr. McLaren's original roof cap design was just large enough to cover the fastening holes. So, on balance, I find Mr. McLaren likely knew Monaro's smaller design would no longer cover the holes.

16. On May 10, 2021, Monaro emailed Mr. McLaren to advise that its work on the van roof was complete, that the cap fit very well, and the exposed fastening holes had been filled, sanded, and were ready to paint. The email also advised that when creating the mold, Monaro had discovered the roof was not symmetrical, so it had to make more mold patterns than anticipated. This resulted in an additional \$95 charge for extra time. Mr. McLaren did not dispute or question this additional charge in his response. However, he advised that his mechanic wanted to see the cap to get a better idea of its size compared to the original design. I find this further shows that Mr. McLaren knew Monaro's cap design was smaller, and that his mechanic may have to do additional finishing work.
17. Monaro provided Mr. McLaren with a May 10, 2021 invoice, which shows the agreed \$2,400 for the mold and \$975 for fabricating the cap, plus the noted \$95 charge for extra time, \$693.43 for filling the holes, and taxes. After accounting for Mr. McLaren's \$1,000 paid deposit, the invoice shows an outstanding balance of \$3,663.04.
18. The evidence shows that the parties had further discussions about additional work on the van relating to weather stripping and painting. However, Mr. McLaren advised Monaro in a May 14, 2021 email that he was not prepared to pay significantly more, given the May 10 invoice was already about \$800 plus tax over the quoted cost. Mr. McLaren stated he did not believe he should have to pay anything further for Monaro to do the remaining work to complete the roof cap installation. In the alternative, he suggested that his mechanic do the remaining work and its invoice be deducted from Monaro's May 10 invoice.
19. In response, Monaro stated that it made the roof cap as quoted and that its work to fill the exposed roof holes came with a charge. Monaro advised Mr. McLaren that its May 10 invoice would need to be paid in full before it would do any further work. There is no evidence before me that Monaro did any further work on Mr. McLaren's van. Yet, it is undisputed that Mr. McLaren paid Monaro's full \$3,663.04 invoice.
20. Mr. McLaren says W1 ultimately completed the roof cap installation and finishing work, which Monaro does not dispute. Mr. McLaren provided an invoice from W1 for

what he says was extra work required due to Monaro's smaller roof cap design, totalling \$1,166.86. Mr. McLaren claims damages from Monaro for W1's \$1,166.86 invoice, plus the \$883.04 on Monaro's invoice above the quoted price, totalling the claimed \$2,049.90.

21. I acknowledge that Mr. McLaren was unhappy with the finished result of the revised roof cap design, which he says has poor aesthetics, and with the fact that it cost more than he anticipated. However, as noted, I find Mr. McLaren agreed to Monaro's second quote, knowing the roof cap would likely be smaller and the rail fastening holes would have to be filled. I infer that Mr. McLaren may not have realized there could be other finishing costs associated with a smaller roof cap. However, I find Mr. McLaren has not established that Monaro knew how Mr. McLaren intended to finish the original roof cap design, or how the revised design would impact those plans. In other words, I find it was Mr. McLaren's obligation to determine whether additional finishing work would be required with the revised design, before he agreed to proceed.
22. Mr. McLaren argues Monaro should not have instructed him to remove the rails because the smaller roof cap could have been installed with the rails in place. However, Mr. McLaren did not provide any other evidence that this was the case or that the rails could not have been reinstalled once the new cap was in place. I accept Monaro's evidence that Mr. McLaren asked Monaro to fill the holes, which Mr. McLaren does not dispute. Overall, I find Mr. McLaren has not shown removing the rails was unnecessary or that Monaro unreasonably charged him for filling the holes.
23. Further, as noted, Mr. McLaren paid Monaro's full invoice, even after Monaro advised Mr. McLaren that it would not discount it for the amount over its quote. Mr. McLaren could have refused to pay Monaro the amount above the agreed quote if he disputed the charges, but he did not. I find that by paying Monaro's invoice, Mr. McLaren agreed to it, including the \$95 for extra time on the mold and the \$693.43 for filling the holes. I find he cannot now claim a refund of amounts he agreed to pay. So, I dismiss his claim for a refund of the \$883.04 he paid Monaro above the quote.

24. As for W1's invoice, because Mr. McLaren agreed to the revised roof cap design, I find Monaro is not responsible for the alleged extra finishing expenses. Further, while W1's invoice states "Rework invoice: roof cap differs from original drawings", I find that is insufficient to conclude that all charges on the invoice resulted from the cap's smaller size. Mr. McLaren did not provide a statement from his mechanic at W1 to explain the charges on the invoice, or any other evidence to establish that the charges were reasonable or necessary. For all these reasons, I find Mr. McLaren has not met his burden to prove Monaro is responsible for W1's \$1,166.86 invoice. I dismiss Mr. McLaren's claims.
25. 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. As Mr. McLaren was unsuccessful, I dismiss his claim for CRT fees. As the successful party, Monaro did not pay any fees or claim any dispute-related expenses.

ORDER

26. I dismiss Mr. McLaren's claims, and this dispute.

Kristin Gardner, Tribunal Member