



Civil Resolution Tribunal

Date Issued: February 8, 2022

File: SC-2021-005535

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Revolution Resource Recovery v. P-F Motors Ltd.*, 2022 BCCRT 151

B E T W E E N :

REVOLUTION RESOURCE RECOVERY INC.

APPLICANT

A N D :

P-F MOTORS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about a waste disposal contract. The applicant, Revolution Resource Recovery Inc. (Revolution), entered into a written contract with the respondent, P-F Motors Ltd. (P-F), on April 8, 2019. P-F had an existing contract with another waste disposal company, PWS, which was set to expire on March 17, 2021. Revolution says P-F breached their agreement by refusing to honour the contract it signed with

Revolution. Revolution claims \$3,097.50 for liquidated damages and \$250 for bin delivery and removal fees, for a total of \$3,347.50.

2. P-F says the parties' contract was invalid because it stated Revolution's service would commence on June 8, 2019. P-F says it did not agree to Revolution starting its service as of March 17, 2021, so "there is no contract" that P-F breached. P-F denies that it owes Revolution anything.
3. The parties are each represented by a respective employee.

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.
8. A tribunal member issued a January 13, 2022 preliminary decision, about whether the CRT should refuse to resolve this dispute given that Revolution is the defendant in an action commenced under the *Class Proceedings Act* (see *676083 B.C. Ltd. v. Revolution Resource Recovery Inc.*, 2021 BCSC 2072). The tribunal member declined to refuse to resolve this dispute because Revolution's CRT claims did not appear to involve issues related to the 2 certified classes. I agree with the tribunal member's preliminary decision. I find neither party has provided any evidence showing that P-F is likely a member of either class. Therefore, I find it is appropriate to decide this dispute on its merits.
9. P-F submitted one item of late evidence, though it was received before Revolution made its submissions, so I find Revolution had the opportunity to respond to it. The late evidence consisted of the back page of P-F's contract with PWS, with its terms and conditions. I do not accept this late evidence, simply because it was a duplicate of an evidence item P-F had earlier submitted on time.

ISSUE

10. The issue in this dispute is whether P-F breached the parties' contract, and if so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant Revolution must prove its 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.

12. As noted, the parties signed a waste disposal service contract on April 8, 2019. The evidence shows that one of P-F's owners signed the contract for P-F. I find the contract contained the following relevant terms:
- a. Revolution agreed to provide waste disposal services for 60 months after the service commencement date.
 - b. The service commencement date was June 8, 2019. However, if P-F was a party to a pre-existing contract with a third party that was providing waste disposal services similar to those of Revolution, the contract provided that the service commencement date would be deferred to the day after the pre-existing contract's termination date.
 - c. The monthly charge was \$50. There was also a bin delivery charge of \$125 and a bin removal fee of \$125. Under "Special Instructions", the contract stated the first month was no charge.
 - d. P-F could terminate the parties' agreement by sending written notice to Revolution by registered mail during a cancellation window. The cancellation window was 90 to 120 days before the end of the 60-month term.
 - e. If P-F terminated the contract outside the cancellation window, Revolution could accept the termination and require P-F to pay liquidated damages as discussed below.
13. It is undisputed that P-F was already under contract for waste disposal services with PWS when it signed the agreement with Revolution. The PWS contract in evidence shows it was for a 5-year term starting on March 17, 2016. So, based on the parties' contract, I find that the commencement date for Revolution's service was deferred until March 17, 2021.
14. P-F says Revolution sent PWS 2 letters in April 2019 to cancel P-F's existing contract with PWS. P-F says it believed Revolution's services would begin on the stated service commencement date of June 8, 2019, and that when it did not hear from

Revolution, it assumed Revolution was unsuccessful in breaking its contract with PWS.

15. However, the evidence shows Revolution advised P-F in a July 17, 2019 letter that, based on the copy of the PWS agreement P-F provided, Revolution would place its bin on March 17, 2021 and the parties' contract would take effect at that time. The letter also advised P-F to be aware of "double contracting", and to ensure if PWS tried to re-sign P-F, it should inform PWS that it has signed a new agreement with Revolution. Based on this letter, which P-F does not deny it received, I find P-F knew Revolution's service would not commence until March 17, 2021.
16. Further, P-F acknowledges that Revolution had P-F sign another letter in November 2020, which stated it was cancelling its contract with PWS. The evidence shows this letter was dated December 1, 2020, that Revolution sent it to PWS by registered mail, and that it was delivered December 3, 2020. I find this termination notice was sent within the cancellation window of 90 to 180 days before the end of the service term's end, as set out in the PWS contract.
17. P-F says that PWS continued its service after March 17, 2021 because Revolution did not send PWS a valid termination notice. However, P-F did not explain how Revolution's December 1, 2020 letter to PWS was invalid, or provide any evidence that PWS failed to receive the letter or determined it was invalid. On balance, I find that by sending the termination notice to PWS within the relevant cancellation window, Revolution fulfilled any obligations it had to P-F under their agreement to cancel P-F's contract with PWS. If the PWS contract was renewed in error, I find that is a dispute between P-F and PWS, and it does not impact P-F's contract with Revolution.
18. It is undisputed that Revolution placed its bin at P-F's property on March 17, 2021. Revolution says P-F then contacted Revolution to advise that it would not be honouring their agreement, as it would continue to use its existing waste hauler and did not require Revolution's services. P-F does not dispute this.

19. Revolution argues that P-F provided notice it was cancelling their contract outside the cancellation window of 90 to 120 days before the end of the service term, in breach of their agreement. I agree. I find that P-F has not established that the deferred service commencement date invalidated the parties' contract, as alleged. I find P-F had a valid contract with Revolution and that P-F breached that contract by providing notice of cancellation outside the cancellation window. Therefore, I find Revolution has established it is entitled to claim damages under the parties' contract.
20. The parties' contract provided that Revolution can claim liquidated damages equal to the amount that would have become due to Revolution over the balance of the contract's term. Given that Revolution agreed the first month of service would be provided at no charge, it claims the remaining 59 months of service at \$52.50 per month (\$50 plus GST), which totals \$3,097.50. Because Revolution had already delivered its bin and had to remove it when P-F cancelled service, Revolution claims an additional \$250 in debt.
21. I find Revolution has proven it is entitled to the claimed \$3,347.50 and I order P-F to pay Revolution that amount.
22. The *Court Order Interest Act* applies to the CRT. Revolution is entitled to pre-judgment interest on the \$3,347.50 from March 17, 2021, the service commencement date of the contract, to the date of this decision. This equals \$13.54.
23. 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 see no reason in this case not to follow that general rule. I find Revolution is entitled to reimbursement of \$175 in CRT fees. The parties claimed no specific dispute-related expenses, so I order none.

ORDERS

24. Within 14 days of the date of this order, I order P-F to pay Revolution a total of \$3,536.04, broken down as follows:

- a. \$3,097.50 in liquidated damages,
 - b. \$250 in debt for the bin placement and removal,
 - c. \$13.54 in pre-judgment interest under the *Court Order Interest Act*, and
 - d. \$175 in CRT fees.
25. Revolution is entitled to post-judgment interest, as applicable.
26. 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.
27. 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.

Kristin Gardner, Tribunal Member