



Civil Resolution Tribunal

Date Issued: March 9, 2022

File: SC-2021-006221

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Super Sweep Street Cleaning Incorporated v. SF Disposal Queen Ltd.*,
2022 BCCRT 253

B E T W E E N :

SUPER SWEEP STREET CLEANING INCORPORATED

APPLICANT

A N D :

SF DISPOSAL QUEEN LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about commercial sweeping/street cleaning services. The applicant, Super Sweep Street Cleaning Incorporated (Super Sweep), says the respondent, SF Disposal Queen Ltd. (SF), called it to sweep their paved yard. Super Sweep says SF refused to permit Super Sweep to sweep SF's paved yard areas because Super Sweep told SF that it could not sweep the gravel areas. Super Sweep claims \$351.75 for its time attending SF's lot.
2. SF says Super Sweep never asked SF what type of material was on the ground. If Super Sweep had, SF says it would have said gravel. SF denies ever saying its yard was paved. SF says it understood Super Sweep was a professional business that could do the job.
3. The parties are each represented by an officer or 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. 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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Some of the evidence in this dispute amounts to a "he said, he said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The

assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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. CRTA section 42 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. Super Sweep submitted evidence past the CRT's deadline, namely a photo of SF's gravel yard. Bearing in mind the CRT's flexible mandate and because SF had an opportunity to respond, I allow this late evidence and have considered it in my analysis below.

ISSUES

9. The issues in this dispute are whether SF told Super Sweep its yard was paved and whether Super Sweep is entitled to the claimed \$351.75 for its attendance at SF's site.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Super Sweep must prove its claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' evidence and submissions but refer only to what I find relevant to provide context for my decision.
11. In a submitted Statement of Facts, the parties agree:

- a. SF's employee called Super Sweep and asked them to "sweep their lot".
 - b. During the above phone call, SF did not tell Super Sweep's employee that SF's lot was primarily gravel. At the same time, Super Sweep's employee did not tell SF that they do not sweep gravel lots.
 - c. On July 24, 2021, Super Sweep's employee attended SF's site to do the sweeping.
12. The parties dispute whether Super Sweep's employee told SF during the above phone call that there was a minimum call-out charge.
13. It is undisputed Super Sweep could not sweep the gravel portions of SF's lot. Based on the submitted photo I find the lot was mostly gravel. As shown in a submitted photo, Super Sweep's truck appears to be a street cleaning truck, with large brooms under the truck.
14. The parties agree SF refused to permit Super Sweep to sweep only the small concrete portion and sent Super Sweep away.
15. SF says that another company cleared the gravel with a front-end loader, which I accept based on a photo in evidence. SF says that Super Sweep did not say it had concerns about the type of ground material and so it expected Super Sweep would be able to do the job. Super Sweep argues the job required the front-end loader or bobcat, and I infer it argues SF should have known Super Sweep could not do that sort of work.
16. There is no written contract in evidence. There is only an email thread between the parties where SF requested the sweeping work and Super Sweep agreed. Notably, there is nothing in those emails about a minimum call-out charge. There is also no discussion of the type of ground material.
17. I find it unlikely Super Sweep advised SF there was a minimum call-out charge. I say this because I find it likely Super Sweep would have mentioned this in the emails thread noted above and it was not.

18. Next, as noted above, Super Sweep undisputedly did not tell SF that it could not sweep gravel. I do not accept Super Sweep's submission that it was called to sweep a paved lot. Again, the booking email exchange does not show SF ever described its yard material.
19. Given the above, I find Super Sweep's claim must be dismissed. I say this because it undisputedly did not do any work for SF and I have found SF never agreed to a minimum call-out charge. Super Sweep never expressed any limitations about the material it could sweep. So, I also find it was not SF's fault that Super Sweep was unaware SF's yard was largely gravel. Further, Super Sweet submitted no supporting evidence, such as invoice or quote, to support the claimed \$351.75.
20. 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. Super Sweep was unsuccessful, so I dismiss its claim for CRT fee reimbursement and for dispute-related expenses. SF did not pay fees and neither party claimed dispute-related expenses.

ORDER

21. I dismiss Super Sweep's claims and this dispute.

Shelley Lopez, Vice Chair