



Civil Resolution Tribunal

Date Issued: March 18, 2022

File: SC-2021-006484

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Blueprint Realty Inc. v. Jinnah*, 2022 BCCRT 298

BETWEEN:

BLUEPRINT REALTY INC.

APPLICANT

AND:

ISMAIL JINNAH

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant real estate brokerage firm, Blueprint Realty Inc., says the respondent realtor, Ismail Jinnah, breached their contract with the applicant. Specifically, the

applicant says the respondent has failed to repay the applicant a \$2,000 insurance deductible charged by the Real Estate Council of BC (RECBC), for the applicant's settlement of other litigation. The applicant says the settlement arose from the respondent's realty business. The applicant claims \$2,000 as reimbursement of the paid deductible, which the applicant also describes as a "penalty".

2. The respondent says they were never the applicant's employee and that the applicant has "their own deductible" to pay for the litigation's settlement as the applicant was also named as a party in that proceeding. It is undisputed the respondent never agreed to the settlement and never agreed to repay the deductible.
3. The applicant is represented by an employee or principal. The respondent 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). 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. 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. The only documentary evidence submitted in this dispute was late evidence submitted by the applicant. This was a copy of the respondent's January 19, 2015 contract with the applicant. Bearing in mind the CRT's flexible mandate, I allow this late evidence. This is because I find it relevant and because the respondent had an opportunity to comment on it and so was not prejudiced by it.

ISSUE

9. The issue in this dispute is whether the respondent is responsible for the applicant's claimed \$2,000 paid insurance deductible incurred to settle other litigation.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant must prove its claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submitted evidence and arguments but refer only to what I find relevant to provide context for my decision. I note the respondent did not submit any documentary evidence and the applicant did not provide final reply submissions, despite both parties having the opportunity to do so.
11. The applicant says there was a \$4,000 deductible imposed to settle litigation that it otherwise did not particularly describe, and that \$2,000 of that was charged to the applicant. There is no other detail provided about the deductible or the other litigation, as discussed further below.

12. The undisputed evidence is that the respondent worked with the applicant as an independent contractor, as described in the parties' 17-page January 19, 2015 agreement. The contract's relevant terms include:
 - a. Clause 6C "Lawyers' Fees" was highlighted in the copy submitted by the applicant. It says the respondent will be responsible for all costs related to litigation expenses incurred by the applicant in the "collection of, or attempt to collect, amounts due and owing under the terms of this Agreement" (reproduced as written).
 - b. Clause 7 "Indemnification". The respondent agrees to be solely responsible for all expenses, penalties, costs, "relating to or arising out of" the respondent's real estate business.
13. I find the applicant's claim cannot succeed. First, it submitted no evidence that it paid a \$2,000 deductible to anyone. As noted, the only evidence it submitted was a copy of its contract with the respondent.
14. Second, the contract's clause 6C relates to the applicant's recovery of litigation-related expenses for money owing under the parties' contract. There is no evidence or even any argument before me that the paid insurance deductible related to litigation over the parties' own contract.
15. Third, there is no evidence to support the assertion that any paid deductible was paid for anything the respondent did. The applicant did not respond to the respondent's assertion that the litigation was settled with the applicant being a named party. So, I find it unproven the contract's clause 7 applies here. For all the reasons above, I find the applicant's claim must be dismissed.
16. 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 the applicant was unsuccessful, I find it is not entitled to reimbursement of CRT fees or the claimed \$500 for "retrieval, review, and processing of this claim", which is essentially a 'time spent' expense claim that I

would have not allowed in any event. The respondent did not pay fees or claim dispute-related expenses.

ORDER

17. I dismiss the applicant's claim and this dispute.

Shelley Lopez, Vice Chair