



Civil Resolution Tribunal

Date Issued: April 22, 2022

File: SC-2021-006638

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Maple Leaf Disposal Ltd. v Fu's Sticks Co. Inc.*,
2022 BCCRT 472

B E T W E E N :

MAPLE LEAF DISPOSAL LTD.

APPLICANT

A N D :

FU'S STICKS CO. INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Trisha Apland

INTRODUCTION

1. This dispute is about a waste disposal contract.
2. The applicant, Maple Leaf Disposal Ltd. (MLD), provided waste disposal services to the respondent, Fu's Sticks Co. Inc. (Fu). MLD says Fu breached the contract by failing to pay its invoices. MLD says Fu owed it \$5,554.52 including contractual

interest as of September 1, 2021. MLD abandons its claim over the \$5,000 small claims monetary limit of the Civil Resolution Tribunal (CRT). MLD claims a total of \$5,000.

3. As set out in its Dispute Response, Fu stated that a MLD sales associate had told it that if MLD unreasonably missed 2 garbage collections that Fu would have the right to end the contract. Fu stated that MLD failed to pick up its garbage twice in October 2020 and once in January 2021 and it sent MLD an email informing it that Fu wanted to end the contract. Fu stated that it received no response or apology and so it entered into a contract with a new provider in March 2021. It says MLD should not have kept charging it for services it did not want. I infer Fu wants the CRT to dismiss MLD's claim.
4. MLD is represented by an employee. Fu is represented by a director or employee.

JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons. 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.
6. 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.

7. 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.
8. 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

9. The issue in this dispute is to what extent, if any, Fu owes MLD the claimed \$5,000 under the parties' waste disposal contract.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant MLD must prove its claims on a balance of probabilities (which means "more likely than not"). I note Fu provided a Dispute Response but chose not to provide any argument or evidence for this proceeding even though it was given a reasonable opportunity to do so.
11. On September 18, 2020, Fu entered into a 1 year waste disposal contract with MLD and the parties agreed to the following terms:
 - The contract would start October 1, 2020 and MLD would pick up Fu's cardboard and garbage once monthly and its organic waste 4 times monthly.
 - Fu agreed to pay MLD a basic charge of \$320 per month and "extra lift" charges of \$108, plus a 9% diesel surcharge, \$18 environmental fee, and GST. These charges were subject to change.
 - MLD had the right to suspend service for non-payment until Fu paid the total account balance in full. The container charges would accrue while the service

was suspended and would be part of the total payable balance. MLD had the right to terminate the contract for non-payment without notice to Fu.

- Fu could terminate the contract by sending MLD written notice by registered mail no less than 90 days or more than 180 days before the end of the 1-year term (cancellation window). The termination would be effective as of the end of the 1-year term.

12. I find no term in the parties' contract that permitted Fu to terminate the contract for missing deliveries nor evidence showing MLD missed any scheduled deliveries to Fu. So, I find no evidence that would support a conclusion that MLD fundamentally breached the contract by failing to provide the agreed service.
13. The only evidence about MLD's services is a print-out of MLD's customer work history that indicates it placed the bins at Fu's site on October 1, 2020. It indicates MLD then "completed" regular scheduled services each week until April 28, 2021 at which point it "suspended" its services. Based on the submitted emails, unpaid invoices and statement of account, I find MLD suspended its services in April 2021 because Fu had failed to pay its invoices.
14. Based on the contract's terms, I find MLD was entitled to suspend its services but keep charging FU the container charges until Fu paid its balance in full. The submitted emails show that MLD's staff attempted to obtain payment from Fu to resume its services and was unsuccessful. MLD then decided to terminate the parties' contract at the end of August 2021 and it removed its bins. I find MLD was entitled to terminate the parties' contract for Fu's non-payment as it did here.
15. I acknowledge Fu stated in the Dispute Response that it was not pleased with MLD's services and had sent an email asking MLD to cancel the parties' contract in early 2021. However, Fu did not provide a copy of that email and in any event, I find an email would not have satisfied the contract's cancellation requirements or relieved Fu from paying the monthly charges until the end of the contract's 1-year term, October 1, 2021.

16. Based my calculation of the invoiced amounts owing, I find Fu owed MLD the principal amount of \$4,288.91 as of the August 31, 2021 cancellation date.
17. The parties' contract sets out an annual interest rate of 26.824%. The interest rate on the \$4,288.91 debt from August 31, 2021 to the date of this decision equals \$740.71. Since MLD is only entitled to a total award up to the CRT's \$5,000 small claims limit (inclusive of contractual interest), I award only \$711.09 in contractual interest.
18. 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, which are excluded from the CRT's monetary limit. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175 in paid CRT fees. It did not claim any in dispute-related expenses.

ORDERS

19. Within 30 days of the date of this order, I order Fu to pay MLD a total of \$5,175.00, broken down as follows:
 - a. \$4,288.91 in debt,
 - b. \$711.09 in contractual interest, and
 - c. \$175 in CRT fees.
20. MLD is entitled to post-judgment interest, as applicable.
21. 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.

22. 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.

Trisha Apland, Tribunal Member