



Civil Resolution Tribunal

Date Issued: April 22, 2022

File: SC-2021-007336

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Unique Glass and Shower Doors Ltd. v. Bhogal*, 2022 BCCRT 474

BETWEEN:

UNIQUE GLASS AND SHOWER DOORS LTD.

APPLICANT

AND:

GURDEEP SINGH BHOGAL and GHJ CONSTRUCTION LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is over payment for installation of closets and shower doors. The applicant, Unique Glass and Shower Doors Ltd. (Unique), says the respondent

Gurdeep Singh Bhogal hired it to do work for the respondent, GHJ Construction Ltd. (GHJ). Unique claims a \$3,925 outstanding balance.

2. Mr. Bhogal is GHJ's president and 1 of its directors. The respondents say GHJ never hired Unique, and that Mr. Bhogal hired Unique on behalf of Mr. Bhogal's other company Affordable Kitchen Cabinets Ltd. (Affordable). The respondents also say Unique unreasonably delayed the job and that its work was deficient.
3. Unique is represented by a lawyer, Pir Indar Paul Singh Sahota. The respondents are represented by a lawyer, Rohita Pannu.

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). CRTA section 2 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. In some respects, the parties in this dispute call into question each other's credibility. Credibility of 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. 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. GHJ did not submit a Dispute Response as required. So, technically GHJ is in default. However, I decline to find GHJ in default because Mr. Bhogal (who is also GHJ's director) filed a Dispute Response and expressly wrote that his submissions were on his and GHJ's behalf.
9. Some of the text messages in evidence are in a language other than English. The CRT's rules require evidence to be submitted in English. No English translation was provided. So, I have not considered any non-English evidence.
10. The respondents submitted late evidence, discussed below. Bearing in mind the CRT's flexible mandate and because Unique had an opportunity to comment on it, I allow the late evidence and have considered it in my analysis below.

ISSUES

11. The issues in this dispute are:
 - a. Which of the respondents, if any, did Unique contract with?
 - b. Are there any proven deficiencies in the work Unique completed?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, as the applicant Unique 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.

Who did Unique contract with?

13. None of the parties submitted a formal written contract or any documentation that would amount to a written agreement. It is undisputed however that Unique and Mr. Bhogal began negotiations about the shower and closet doors around September 21, 2020. It is also undisputed that after one revision, the agreed contract price was \$8,925, including tax.
14. As noted, Unique says Mr. Bhogal hired it "for GHJ." In contrast, the respondents say Mr. Bhogal hired Unique but in doing so acted for Mr. Bhogal's other company Affordable. Affordable, a distinct legal entity because it is a corporation, is not a party to this dispute.
15. Unique's May 18, 2021 invoice for \$8,925 was issued to GHJ, for "closets and shower doors installed" at a "Hill" address. However, it was Affordable who had earlier paid \$5,000 to Unique on November 11, 2020, in a cheque signed by Mr. Bhogal. I note Unique's \$8,925 invoice does not reflect the \$5,000 payment, yet Unique expressly agrees that \$5,000 payment was made before work began. As noted, in this dispute Unique claims the \$3,925 difference, which Unique says was due on completion of the work. Unique says it completed the work on around March 14, 2021.
16. In his submissions, Mr. Bhogal says he provides the "evidence" on his and GHJ's behalf and says the "defendants" (respondents) contacted Unique and after an exchange the respondents agreed to a price. However, Mr. Bhogal then submits Affordable paid the \$5,000 in November 2020 because it was Affordable that hired Unique to do the work. On balance, I find that Mr. Bhogal's submission about who provided the "evidence" was to make it clear he represented both himself and GHJ but that he still argues when he hired Unique it was on Affordable's behalf.

17. I also note Unique submitted copies of drawings dated September 26, 2020 that it prepared, which at the top listed “Gurdeep Singh” as the “sold to”, which I find meant Mr. Bhogal. On one of the drawings, there is a handwritten annotation at the top “duba Affordable” (quote reproduced as written). GHJ is not mentioned.
18. Next, in one of the partly non-English text exchanges, someone texted Unique’s owner a screenshot of drawings of doors, on Affordable letterhead. I find it was likely Mr. Bhogal who texted Unique these drawings, which is not particularly disputed. I find all this supports Mr. Bhogal’s position that he acted on Affordable’s behalf, not GHJ.
19. On balance, I find insufficient evidence that GHJ was a party to the contract with Unique. However, I find Mr. Bhogal hired Unique as Affordable’s agent. Significantly, I find at the time the contract was made, Unique was not aware of Affordable’s involvement. So, I find Affordable was an undisclosed principal. Under the law of agency, this means that Unique can sue Mr. Bhogal as Affordable’s agent. Therefore, I find Mr. Bhogal responsible under the contract with Unique. I dismiss the claim against GHJ.

Alleged deficiencies

20. Mr. Bhogal alleges Unique delayed completion. However, apart from Mr. Bhogal’s bare assertion, there is no evidence that the parties agreed to any particular timeline. In particular, while Mr. Bhogal says he contacted Unique “so many times” to finish the job, he provided no evidence of this. I do not accept the allegation Unique unreasonably delayed completion.
21. Next, Mr. Bhogal alleges there were deficiencies in Unique’s work. The party alleging deficiencies in a professional’s or trade’s work product has the burden to prove those deficiencies (see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 6). Here, that burden falls on Mr. Bhogal.
22. In general, when a party alleges that a professional or trade was negligent, there must be expert evidence about the professional’s or trade’s standard of care (see

Bergen v. Guliker, 2015 BCCA 283). There are 2 exceptions to this general rule. First, if the alleged breach relates to something non-technical and within the knowledge and experience of the ordinary person, then there is no need for expert evidence. Second, if the breach is so egregious that it is obvious, then expert evidence may not be required (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112).

23. Mr. Bhogal alleges that the shower doors installed by March 13, 2021 were “not to specifications”. Mr. Bhogal also says there were no closet rods, and drawer fronts “not even.” Again, he submitted no supporting evidence to prove any of this.
24. As part of his late evidence, Mr. Bhogal submitted a very dark photo of a shower door with what appears to be a handwritten notation “door not true.” I cannot conclude from this photo the door is misaligned. There is no other evidence, such as an opinion from another installer, about Unique’s work. There are no photos showing obvious defects. Mr. Bhogal also submitted 2 dark or shadowy black and white photos of closets. I cannot discern any defects from these photos. Otherwise, Mr. Bhogal submitted screenshots of texts with Unique’s representative about the drawings. I cannot discern any defects from this evidence either. Mr. Bhogal also submitted one photo of a drawer with a handwritten annotation “not straight” pointing to the handle. While the handle appears to be perhaps very slightly not level, I cannot conclude from the photo alone that this is a substantial deficiency.
25. So, given the above, I find Mr. Bhogal has not proved any deficiencies in Unique’s work. I find Unique is entitled to the \$3,925 balance owing under the contract.
26. In the absence of an agreement about interest, the *Court Order Interest Act* (COIA) applies to the CRT. I find Unique is entitled to pre-judgment interest on the \$3,925 under the COIA. Calculated from the May 18, 2021 invoice date to the date of this decision, this interest equals \$16.41.
27. 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 Unique was successful, I order Mr. Bhogal to reimburse it \$175 in CRT fees. No dispute-related expenses were claimed.

ORDERS

28. Within 21 days of this decision, I order Mr. Bhogal to pay Unique a total of \$4,116.41, broken down as follows:
 - a. \$3,925 in debt,
 - b. \$16.41 in pre-judgment interest under the COIA, and
 - c. \$175 in CRT fees.
29. Unique is entitled to post-judgment interest, as applicable. I dismiss Unique's claims against GHJ.
30. 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.
31. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of BC. 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 BC.

Shelley Lopez, Vice Chair