



Civil Resolution Tribunal

Date Issued: April 25, 2022

File: SC-2021-005032

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shaw v. Dhillon dba Leaktechs and/or SQ*LeaktechsLangleyBC*,
2022 BCCRT 476

B E T W E E N :

MAVIS SHAW

APPLICANT

A N D :

AMRIT SINGH DHILLON also known as AMRIT DHILLON (Doing
Business As LEAKTECHS and or SQ*LEAKTECHSLANGLEYBC)
and ONGUARD LEAK DIAGNOSTICS INC.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about an air quality inspection. The applicant, Mavis Shaw, says she hired the respondent, Onguard Leak Diagnostics Inc. (Onguard) and its director, the respondent Amrit Singh Dhillon also known as Amrit Dhillon (doing business as

Leaktechs and SQ*LeaktechsLangleyBC), to perform an air quality inspection in the home she rented. Ms. Shaw says the inspection did not include certain tests that she requested, so it was not useful to her. She claims a full refund of the \$472.50 test fee she paid.

2. The respondents say they completed the inspection as agreed, and that the additional tests Ms. Dhillon wanted were extra-charge items that she did not agree to pay for. They say they owe nothing.
3. Ms. Shaw is self-represented in this dispute. Mr. Dhillon represents the respondents.

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. Mr. Dhillon says that Ms. Shaw hired only Onguard, and not him personally, to perform the inspection. I find the evidence does not show that Mr. Dhillon personally contracted with Ms. Shaw or was responsible for Onguard's work. Further, the parties agree that Onguard was later dissolved and no longer exists. However, given the outcome of my decision below, nothing turns on this.

ISSUE

9. The issue in this dispute is whether the respondents completed all agreed work, and if not, whether they owe Ms. Shaw a \$472.50 refund for breach of contract.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Ms. Shaw must prove her claims on a balance of probabilities, meaning "more likely than not." I have read all the parties' submissions but refer only to the evidence and arguments that I find relevant to provide context for my decision.
11. Ms. Shaw was concerned about a "horrible smell" and possible air contaminants in her residence, which included 2 floors plus a crawlspace. At her request, the respondents performed an air quality inspection on June 15, 2020. The parties differ about what services the respondents agreed to provide as part of that investigation.
12. The parties do not have a formal, written contract, and there are no estimates, invoices, or other documents that show what the respondents agreed to do. The parties disagree about who called the respondents. I find nothing turns on whether Ms. Shaw's daughter arranged the inspection on Ms. Shaw's behalf as her agent, or Ms. Shaw arranged the inspection directly. I find the parties undisputedly agreed that Onguard would provide an air quality inspection for \$472.50. Ms. Shaw does not deny

that she sent the full payment to Onguard, which provided an inspection report on Onguard letterhead, signed by Mr. Dhillon as Onguard's representative.

13. Ms. Shaw says that the respondents did not record actual, numeric humidity measurements, did not take air samples, and did not conduct mould testing. She says she needed mould test results in order to convince the property owner to fix air quality issues. The respondents say that recording further numeric humidity test results and testing air samples for mould was not part of the agreement. They say that mould tests were a separate service that required additional payment, which Ms. Shaw did not agree to. The respondents also say that the presence of mould and the source of the smell was "apparent" from their investigations, and that additional mould tests were unnecessary in the circumstances.
14. I find the parties' agreement, including any requirements for specific types of tests and results, was entirely verbal. A contract does not have to be written to be enforceable, but it can be more difficult to prove the terms of verbal agreements. The key question here is, what did the parties agree to?
15. Ms. Shaw does not deny the respondents' submission that mould tests are conducted in a laboratory. Ms. Shaw submitted a photo of part of a website, which the respondents do not deny was Onguard's. I find the photo shows that a certain type of air quality inspection included tests of relative humidity. The photo also shows a heading that is partially cut off and that might read "Mold Spores". However, I find nothing in the photo or other evidence shows that the respondents agreed to conduct air sampling and mould testing as part of the air quality inspection Ms. Shaw ordered. Having weighed the evidence, I find that Ms. Shaw has not met her burden of showing that the verbal agreement required the respondents to conduct mould testing or air sampling.
16. Turning to humidity, the Onguard report said that relative humidity levels should ideally be in the 40-49% range. The report said the home's 2 bathrooms measured 73% and 65%, and neither had an exhaust fan. The crawlspace measured 83% and standing water was noted, along with photos of moisture-related crawlspace

problems. The report said that humidity readings were not within acceptable levels, and noted that high moisture levels encourage the growth of fungus, mould, and dust mites, and can make occupants sick and uncomfortable. The report also said that the 83% crawl space humidity was excessive and very favourable to mould growth. This is consistent with later mould testing conducted by a different company, which found mould was present. The Onguard report made several recommendations for addressing the excessive humidity findings.

17. I find the report contained actual humidity measurements, and the evidence does not show that it was lacking any agreed content. I find Ms. Shaw has not proven that the Onguard report is missing any results that the respondents agreed to provide.
18. Ms. Shaw also says that after issuing the report, the respondents agreed to perform further tests and failed to do so. On June 26, 2020, the respondents emailed that mould lab tests were an extra charge, and asked Ms. Shaw how she wished to proceed. Ms. Shaw replied that she wanted relative humidity readings, and also air samples in case she required mould lab tests, which the respondents said was a good approach. Ms. Shaw then responded, also on June 26, 2020, that it seemed from the respondents' emails that they already had air samples, so there was little reason for them to return just to take humidity readings. The respondents did not respond, and Ms. Shaw made no further inquiries until she demanded a refund in a later, undated email. Contrary to Ms. Shaw's submissions, I find the respondents did not stop responding to her emails, because there were no further email inquiries to respond to.
19. Given the emails noted above, I find Ms. Shaw asked the respondents to return to her home for further tests and samples, and then suggested that they were not necessary. I also find Ms. Shaw did not follow up with the respondents to schedule further testing, before rejecting any further testing and demanding a refund. In the circumstances, I find the respondents reasonably inferred that Ms. Shaw wanted no further testing. I find the evidence does not show the parties came to an agreement about further testing and air sampling.

20. Having reviewed the evidence, I find that Ms. Shaw has not met her burden of showing that the respondents failed to conduct any agreed tests, failed to provide adequate test results in the Onguard report, or otherwise broke the testing agreement. I dismiss Ms. Shaw's claim for a \$472.50 refund.

CRT Fees and Expenses

21. Under section 49 of the CRTA, and the 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. Ms. Shaw was unsuccessful in her claim and the respondents paid no CRT fees. Neither party claimed CRT dispute-related expenses. So, I order no reimbursements.

ORDER

22. I dismiss Ms. Shaw's claim, and this dispute.

Chad McCarthy, Tribunal Member