



Civil Resolution Tribunal

Date Issued: May 24, 2022

File: SC-2021-005911

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Waste Connections of Canada Inc. v. Mt. Pleasant Motors Ltd.*,
2022 BCCRT 607

BETWEEN:

WASTE CONNECTIONS OF CANADA INC.

APPLICANT

AND:

MT. PLEASANT MOTORS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about a waste disposal contract. The applicant, Waste Connections of Canada Inc. (WCC), provided waste disposal services to the respondent, Mt. Pleasant Motors Ltd. (MPM). WCC says MPM breached the parties' agreement by failing to make payments and that MPM owes \$625.45 in unpaid invoices. WCC also

says MPM failed to properly terminate the contract, so says MPM also owes \$1,164.05 in liquidated damages.

2. MPM says it paid the alleged outstanding invoices by Visa, and says the parties mutually decided to terminate the contract. MPM admits owing for 5 months of service remaining after terminating its contract, at a rate of \$65 per month, plus a bin pick up fee of \$50, for a total of \$375.
3. Each party is represented by a business contact.

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 parties to a dispute that will likely continue after the dispute resolution process has ended.
5. Section 39 of the CRTA says that 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.
6. Section 42 of the CRTA says that 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.

ISSUES

8. The issues in this dispute are:
 - a. Does MPM owe WCC \$625.45 for unpaid invoices?
 - b. To what extent, if any, is WCC entitled to \$1,164.05 in liquidated damages?

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant WCC must prove its claims on a balance of probabilities (meaning “more likely than not”). While I have read all of the parties’ submitted evidence and arguments, I have only addressed those necessary to explain my decision.
10. WCC and MPM both submitted copies of the parties’ August 14, 2015 Customer Service Agreement (CSA). The CSA was between “Progressive Waste Solutions Canada Inc.” (Progressive) and MPM. WCC says Progressive is WCC’s former name, which MPM does not deny, so I accept.
11. The contract contained the following terms:
 - a. The initial monthly service rate was \$65, subject to surcharges for extra weight and future rate increases. Additional standard charges included \$25 for bin delivery, \$50 for relocation, and \$50 for exchanges. For bin removal, the contract stated \$0.
 - b. MPM agreed WCC would have the sole and exclusive right to provide waste collection services during the 5-year contract term that was effective as of

August 14, 2015. The contract would automatically renew with no notice for consecutive 5-year terms.

c. MPM could terminate the contract at the end of the 5-year term by providing written notice by registered mail not less than ninety (90) days or more than one hundred eighty (180) days before the end of the then current term (cancellation window). Thus, the CSA's cancellation window was between February 16, 2020 and May 16, 2020.

d. In the event MPM terminates the contract, other than as provided by the contract, it must pay WCC any outstanding invoices, plus liquidated damages in an amount equal to the sum of the monthly billings for the most recent 9 months.

12. It is undisputed that WCC provided waste disposal services to MPM that started on August 14, 2015. Although MPM argues the parties mutually terminated the contract, there is no evidence as to when this was done or how. I find the parties' agreement was not terminated according to the contract's terms.

13. Additionally, although MPM vaguely states it "did not get the service as stated in contract", it provided no evidence or explanation of how WCC allegedly failed to provide waste disposal services to it. I find WCC's alleged breach of contract for poor service is unproven.

14. WCC provided invoices from November 2019 to March 2020 totaling \$625.45 that it says remain unpaid. MPM alleges it does not owe anything because a "visa charge was processed" by WCC. However, MPM did not provide evidence of any payment. Parties are told to submit all relevant evidence. On balance, I find MPM failed to pay the invoices submitted by WCC, and I find MPM must pay WCC the outstanding \$625.45.

15. As for the liquidated damages, MPM admits it owes WCC for the 5 months remaining on its contract when services were terminated. MPM says this is \$65 per month, plus a \$50 bin removal fee, for a total of \$375.

16. WCC says MPM owes a total of \$1,164.05 in liquidated damages under the contract. However, WCC did not provide any calculations as to how it came up with the \$1,164.05. The contract states liquidated damages will be calculated using the most recent 9 months of monthly billings. WCC provided only 5 months of recent monthly billings which, as noted above, total \$625.45. The contract states the monthly service rate was \$65 plus GST (\$68.25). So, using the monthly contract amount for the additional 4 months (to total the 9 months), I find WCC's liquidated damages total \$898.45.
17. Although the parties' contract included a provision for interest, WCC did not claim any contractual or other interest in its claim. Section 2 of the *Court Order Interest Act* (COIA) says there is no pre-judgment COIA interest where there is an agreement about interest. Therefore, I make no order for pre-judgment interest.
18. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. I see no reason to deviate from that general rule. As WCC was successful, I find that it is entitled to reimbursement of the \$150 it paid in tribunal fees. As MPM was not successful, I dismiss its claim for reimbursement of tribunal fees. Neither party claimed dispute-related expenses.

ORDERS

19. Within 30 days of the date of this decision, I order the respondent, Mt. Pleasant Motors Ltd., to pay the applicant, Waste Connections of Canada Inc. (WCC), a total of \$1,673.90, broken down as follows:
 - a. \$1,523.90 in debt, and
 - b. \$150 in tribunal fees.
20. WCC is also 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.

Andrea Ritchie, Vice Chair