



# Civil Resolution Tribunal

Date Issued: May 30, 2022

File: SC-2021-006192

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Disha Moving Services Inc. v. Renegade Arts Society  
dba Renegade Arts Company, 2022 BCCRT 632*

B E T W E E N :

DISHA MOVING SERVICES INC.

**APPLICANT**

A N D :

RENEGADE ARTS SOCIETY dba RENEGADE ARTS COMPANY

**RESPONDENT**

A N D :

DISHA MOVING SERVICES INC.

**RESPONDENT BY COUNTERCLAIM**

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**REASONS FOR DECISION**

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Tribunal Member:

Chad McCarthy

## **INTRODUCTION**

1. This dispute is about moving services. The applicant and respondent by counterclaim, Disha Moving Services Inc. (Disha), loaded items owned by the respondent, Renegade Arts Society dba Renegade Arts Company (Renegade), into a shipping container. More than 1 year later, Renegade hired Disha to move the items from the shipping container, which was stored on a third party's premises, to Renegade's new storage space. Disha claims \$523.31 for unpaid fees for the later move and \$120 for time spent trying to collect that alleged debt, for a total of \$643.31.
2. Renegade denies owing any further moving fees, but says Disha damaged items during the moves. Renegade counterclaims \$4,215.30 for the repair and replacement of broken furniture and props. Disha denies causing any damage.
3. In this dispute, the parties are each represented by a manager.

## **JURISDICTION AND PROCEDURE**

4. 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.
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. Although the parties' submissions each call into question the credibility of the other party to some extent, I find I can properly assess and weigh the written evidence and submissions before me, and that an oral hearing is not necessary in the interests of justice. In the decision *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always needed where credibility is in issue.

Keeping in mind that the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.

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. Although Disha's original Dispute Notice named Renegade Productions Inc. as the respondent, Disha, Renegade, and Renegade Productions Inc. all later confirmed in writing that the correct respondent was Renegade Arts Society dba Renegade Arts Company. I have reflected this agreement in the style of cause, above.
9. In its submissions, Disha says Renegade owes \$743.81 for moving fees, which is more than the \$523.31 claimed in Disha's Dispute Notice. Disha did not amend the Dispute Notice to reflect this larger amount, and I find it would be procedurally unfair to consider a larger amount. I find Disha's moving fee claim is limited to \$523.31.
10. After the time for providing evidence and submissions ended, Disha emailed the CRT asking whether it could add a claim to the dispute, for Renegade allegedly submitting false evidence and lying in its "statement". Disha said it wanted "some sort of consequence" but did not claim compensation. It did not describe the alleged inaccuracies. In their submissions, I find each party alleged inaccuracies in the other's statements. Further, I find that Renegade's final counterclaim reply only addressed issues previously raised in its submissions and Disha's response. Overall, I find that Disha had a reasonable opportunity to respond to Renegade's submissions, including alleged inaccuracies, and to provide all evidence that may prove or disprove a disputed issue. I also find it would be unfair to Renegade, and contrary to the CRT's mandate of speed, economy, and fairness, to allow a new claim at this late stage. As

noted, alleged statement inaccuracies were already addressed by both parties, there are no new issues or evidence to respond to, and Disha does not seek a specific new remedy. I deny Disha's request.

## **ISSUES**

11. The issues in this dispute are as follows:

- a. Is Renegade responsible for \$523.31 in unpaid moving fees and \$120 in debt collection expenses?
- b. Did Disha damage Renegade's property, and if so, does it owe \$4,215.30 in damages?

## **EVIDENCE AND ANALYSIS**

12. In a civil proceeding like this one, Disha must prove its claims on a balance of probabilities, meaning "more likely than not." Renegade must prove its counterclaims to the same standard. I have read all the parties' submissions and evidence, but refer only to the evidence and arguments that I find relevant to provide context for my decision.

13. The undisputed evidence is that Renegade hired Disha in the fall of 2019 to load theatre props and furniture into 3 mobile storage containers. The details of the parties' agreement for that move are not in evidence. However, Disha does not deny Renegade's submission that Disha loaded the storage containers knowing that they would be moved to and stored at a storage facility for a period of time. I find correspondence from the storage facility operator and other evidence shows that after being loaded by Disha, the items were left in the locked containers and were not accessed by anyone for 20 months, until Disha opened the containers to move the items to Renegade's new storage locker.

14. Over multiple days in late June and early July 2021, Disha loaded the items into a truck and moved them into Renegade's new storage locker. There was no formal

written contract or estimate for this move. I find the parties' agreement was arrived at verbally and through text messages in evidence.

15. The parties agree that the move was charged on an hourly basis, but they disagree about the hourly rates agreed to, and whether Disha provided Renegade with a binding estimate of the overall price of the move. Renegade says Disha took too long and therefore charged too much, which Disha denies. However, I find nothing turns on this, because I find correspondence in evidence shows, and the parties admit, that after the move they agreed on a total price of \$2,450. I find this was a binding agreement about the amount owed for the move. However, Renegade admits that it only paid \$2,250 to Disha.
16. Disha says the \$2,450 included certain "discounts" that Renegade later rejected, and suggests that the price included compensation to Renegade for damaged items, discussed below. However, neither Disha's invoice nor other evidence shows that Renegade rejected any discounts, or that the invoiced \$2,450 included compensation for damage. Disha says that it subsequently removed the alleged discounts, so Renegade now owes \$523.31 in unpaid moving fees. However, I find Renegade did not agree to the removal of any discounts, or to pay more than \$2,450.
17. Renegade says that the unpaid \$200 was a pre-estimate of the value of moving damage, and was an offer to Disha to settle any damage claims for that amount. I find correspondence between the parties shows that Disha requested payment of the remaining \$200, and Renegade then withdrew the rejected offer and said it would obtain a more accurate estimate of the damage's value instead.
18. Having weighed the evidence, I find the parties agreed Renegade would pay Disha \$2,450 for the move, but it only paid \$2,250. So, subject to any deductions for property damage considered below, I allow Disha's claim for \$200 for moving fees.
19. Disha also claims \$120 for the hourly wage of 2 persons who allegedly spent an unspecified number of hours trying to collect the moving fee debt from Renegade. However, I find Renegade did not agree to pay any debt collection expenses. Further,

Disha provided no evidence showing the amount of time it spent or the hourly wage of the persons allegedly performing those tasks. I dismiss Disha's claim for \$120 in debt collection expenses as unproven.

20. Turning to property damage, as noted Renegade counterclaims a total of \$4,215.30 for the repair or replacement of items it says Disha damaged. Renegade submitted several photos of items which I find show a damaged prop camera and severely broken or splintered chairs, a bench, and a table. I find photos of most of those items from before Disha's moves show they were undamaged. Neither party alleges that anyone caused any damage after Disha moved the items into Renegade's new storage locker. So, I accept that the damage occurred sometime during the period from Disha's first move into the mobile storage containers until the completion of Disha's second move into Renegade's new storage locker. I also accept the existence of all of the damage claimed by Renegade, which Disha does not directly deny.
21. I find it was an implied term of the parties' moving contract that Disha would perform its moving services in a reasonably professional manner and to a reasonable quality standard in all of the circumstances (see *Belfor (Canada) Inc. v Drescher*, 2021 BCSC 2403 at paragraph 18). As the party alleging that the moving services were deficient and resulted in damage, Renegade bears the burden of proving that (see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61). So, if Renegade proves that Disha's services resulted in the item damage, Disha will be liable for those items' repair or replacement.
22. Disha says it did not damage the items during either of its moves. As noted, I find that no one but Disha handled the items from the start of the first move into the mobile storage containers until the end of the second move into Renegade's storage locker, except for a Renegade employee who says they provided an unspecified amount of help with the second move. However, neither party alleges that the Renegade employee damaged any items. So, I find that either Disha damaged the items during their moves, in which case it would be liable for that damage, or the damage occurred while the items were in the locked containers for 20 months.

23. Disha admits that its employees noticed an unspecified amount of damage to certain items when it retrieved them from the mobile storage containers. In its submissions and text message correspondence, Disha alleged that the damage had occurred because the items had been stacked on top of each other in the storage containers. I find that Disha stacked those items. Specifically, Disha said that the weight of those items during the containers' move to the storage yard and the long storage period caused them to break, and that damage would be "normal."
24. I find there is no evidence before me supporting that the severe damage was "normal" in the circumstances. Disha does not explain why it packed the containers in such a way that such damage would be expected. Further, Renegade says, and Disha does not directly deny, that Renegade instructed Disha to pack the mobile containers so that damage would not occur in normal, short-distance transport and storage. Disha also does not deny Renegade's submission that there was no visible damage to the containers. I find the evidence does not show that there were likely any incidents during the containers' transport and storage that could have caused damage to properly-packed items in the containers. Having weighed the evidence, I find that any damage that occurred between the 2 Disha moves, which Disha alleges was caused by the weight of stacked items in the containers, was likely caused by Disha's failure to properly arrange those items in the containers.
25. So, I find that regardless of whether the items were damaged during Disha's moves or during the intervening transport and storage period, I find Disha caused and is responsible for the damage. I turn now to the value of the damage.
26. Renegade submitted a \$474.50 estimate from Roaring Donkey Productions Ltd. for repairing a prop camera, an antler, and broken legs on a table and chair, which I find was reasonable. Renegade says, and I find pre-move photos in evidence show, that many of the damaged items were in like-new condition before Disha's moves. I also find photos in evidence support Renegade's submission that 2 chairs and a bench were damaged beyond repair. Renegade provided photos of similar-looking new furniture with attached price tags showing multiple prices. Using the lowest price on

each tag and applying sales taxes, I find that the price of 2 new chairs and a new bench totaled \$3,740.80, which is the amount Renegade counterclaims for those items. Disha says that price is excessive, but it submitted no evidence showing that the furniture prices were inaccurate or unreasonable.

27. Adding the new furniture price to the estimated repair price, I allow Renegade's \$4,215.30 counterclaim. Subtracting the \$200 in unpaid moving fees owed by Renegade, I find that Disha owes Renegade a total of \$4,015.30.

### ***CRT Fees, Expenses, and Interest***

28. The *Court Order Interest Act* (COIA) applies to the CRT. Under COIA section 2(a), interest must not be awarded for any loss arising after the date of the order. Here, I find the evidence does not show that Renegade has yet paid anything out-of-pocket for repairs to or replacements of the damaged items. So, I find Renegade is not entitled to pre-judgment interest on the \$4,015.30 owing.
29. 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. Here, I see no reason to depart from that general rule. I find Disha was partly successful in its claims, so it is entitled to reimbursement of half the CRT fees it paid, which equals \$37.50. I find that Renegade was successful in its counterclaim, so it is entitled to reimbursement of the \$175 it paid in CRT fees. Subtracting the two, I find Disha owes Renegade \$137.50 in CRT fees. Neither party claimed CRT dispute-related expenses.

## **ORDERS**

30. Within 30 days of the date of this decision, I order Disha to pay Renegade a total of \$4,152.80, broken down as follows:
- a. \$4,015.30 in damages, which accounts for \$200 owed to Disha for unpaid moving fees, and



b. \$137.50 in CRT fees.

31. Renegade is also entitled to post-judgment interest, as applicable.
32. I dismiss Disha's remaining \$120 claim for debt collection expenses.
33. 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.
34. 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.

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Chad McCarthy, Tribunal Member