



# Civil Resolution Tribunal

Date Issued: June 8, 2022

File: SC-2022-000064

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Fischer and Company Law Corporation v. Dumitrescu*, 2022 BCCRT 672

B E T W E E N :

FISCHER AND COMPANY LAW CORPORATION

**APPLICANT**

A N D :

GEORGE DUMITRESCU

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Leah Volkers

## INTRODUCTION

1. This dispute is about payment for legal services.
2. The applicant, Fischer and Company Law Corporation (Fischer), says it provided legal services to the respondent, George Dumitrescu, and Mr. Dumitrescu has not

paid. Fischer seeks \$2,299.62 in unpaid legal fees and disbursements, plus contractual interest.

3. Mr. Dumitrescu says Fischer unilaterally cancelled the parties' contract and refused to provide proof of completed work. Mr. Dumitrescu says he owes nothing.
4. Fischer is represented by its owner, Matthew Fischer. Mr. Dumitrescu is self-represented.

## **JURISDICTION AND PROCEDURE**

5. 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.
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 how much, if anything, Mr. Dumitrescu owes Fischer for legal services.

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, as the applicant, Fischer must prove its claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.

### ***Background***

11. It is undisputed that the parties' agreed Fischer would provide legal services to Mr. Dumitrescu in exchange for payment. Fischer says Mr. Dumitrescu contacted Fischer in 2019 to request legal advice and assistance. I find emails in evidence confirm that Fischer provided Mr. Dumitrescu with its terms of service on November 5, 2019. Mr. Dumitrescu expressly agreed to Fischer's terms of service in a January 13, 2020 email to Fischer. I will discuss Fischer's terms of service further below.
12. Fischer says Mr. Dumitrescu proceeded to request and receive legal services, and paid several accounts issued by Fischer between July 2020 and August 2021. Mr. Dumitrescu does not dispute this.
13. This dispute arises from legal services allegedly provided between August 18, 2021 and October 5, 2021. It is undisputed that Fischer terminated that parties' contract on October 5, 2021. Mr. Dumitrescu says Fischer did not provide the legal services it billed for, and is not entitled to payment of its October 17, 2021 invoice because it unilaterally terminated the parties' contract.

### ***Fischer legal services and invoice***

14. Fischer seeks payment for its October 17, 2021 invoice. The invoice itself totals \$2,299.62 for 15.3 hours of work between August 18, 2021 and October 5, 2021, after

a courtesy reduction of \$1,000. The invoice covers file review, document review, legal research, revision of legal claims, drafting letters to Mr. Dumitrescu, and other correspondence with Mr. Dumitrescu.

15. On November 4, 2021, Fischer emailed its October 17, 2021 invoice to Mr. Dumitrescu. Mr. Dumitrescu responded the same day and advised that he would not be paying the invoice because Fischer unilaterally ended the contract without delivering anything to Mr. Dumitrescu.
16. Mr. Dumitrescu says that he only instructed and agreed to have Fischer prepare an amended claim. Mr. Dumitrescu also says he made numerous attempts to contact Fischer to advise that it was working on “the wrong issues”. However, I find the available evidence does not support this allegation.
17. I find the emails and a recorded phone call in evidence confirm Mr. Dumitrescu instructed Fischer to provide legal services on both an amended claim and a new claim. Specifically, I find that the available evidence shows the following:
  - a. In July 2021, Mr. Dumitrescu advised Fischer that he intended to proceed with actions for “every single issue” he had raised so far.
  - b. On August 11, 2021, Mr. Fischer and Mr. Dumitrescu spoke on the phone. During the call, which was provided in evidence, I find Mr. Dumitrescu agreed to Mr. Fischer’s recommendation that Fischer assist Mr. Dumitrescu in preparing an amended claim, and filing a further claim with several issues. Mr. Dumitrescu also agreed to have Fischer’s articulated student begin preparing drafts of the amended claim and the new claim. The same day, Fischer emailed Mr. Dumitrescu advising it required a further retainer. In response, Mr. Dumitrescu confirmed that he would pay the invoice when it was provided.
  - c. On September 23, 2021, Mr. Dumitrescu specifically instructed Fischer to proceed with “option three” as set out in Fischer’s September 22, 2021 opinion letter. The opinion letter is in evidence, and shows that “option three” was for Fischer to prepare both an amended claim and an entirely new claim on Mr.

Dumitrescu's behalf. Fischer also requested a \$5,000 retainer in the opinion letter.

18. Given the above, I find that Mr. Dumitrescu specifically agreed and instructed Fischer to provide legal services on both an amended claim and a new claim in August 2021 and again in September 2021.
19. Mr. Dumitrescu alleges that Fischer did not complete any work. Fischer submitted in evidence two draft documents that its articulated student began preparing in August 2021. I find these documents prove that Fischer began work on drafts for both the amended claim and the new claim. Mr. Dumitrescu also alleges that the work was performed "after the fact". However, the articulated student's work on the drafts is recorded in the invoice in August 2021. Contrary to Mr. Dumitrescu's allegations, I find this shows that work was completed in August 2021.
20. I turn to the charges in the invoice itself. Fischer says the articulated student's time to start the drafts claims in August 2021 was on the higher end. Fischer says it reduced its invoice by \$1,000 to account for this. I find the charges for the articulated student to begin drafting the amended claim and the new claim are reasonable, and are supported by the drafts in evidence. I also find the other charges on the invoice are reasonable, and consistent with the emails and letters provided in evidence. Mr. Dumitrescu did not otherwise raise concerns with any specific charges on the invoice. I find the available evidence proves that Fischer completed the work and reasonably charged the disbursements listed in its invoice, totaling \$2,299.62.
21. Mr. Dumitrescu argues that Fischer did not show him the drafts or prove the work was completed, so he is not responsible to pay for it. As noted, I find the evidence shows that Fischer prepared drafts for an amended claim and a new claim. I also find the evidence shows that Fischer offered to provide the drafts to Mr. Dumitrescu's new counsel once the invoice was paid. Given this, I place no weight on Mr. Dumitrescu's argument that he should not have to pay the invoice on this basis.

22. Mr. Dumitrescu also says Fischer is not entitled to payment because Fischer cancelled the parties' contract. However, Fischer's terms of service say Fischer has the right to terminate services for good reason, including loss of confidence and non-payment of a retainer, among other things. The terms of service also say that if Fischer withdraws, Mr. Dumitrescu will only have to pay for fees and expenses incurred up until the time Fischer stops acting on Mr. Dumitrescu's behalf. Fischer says its terminated services because of a loss of confidence between the parties. I find the emails in evidence support this, and I place significant weight on the October 4 and 5, 2021 emails between the parties that include confirmation from Mr. Dumitrescu that he would not pay the retainer, and allegations that Fischer had not completed any work and that the "money faucet" would be turned off because Fischer had not "delivered any wins", among other things. Given the above, I find Fischer was entitled to terminate its services under its terms of service, and remains entitled to payment for the work it performed on Mr. Dumitrescu's behalf.
23. Mr. Dumitrescu also says Fischer breached the parties' contract by completing work before receiving a retainer. It is undisputed that Fischer provided legal services to Mr. Dumitrescu prior to receiving a further retainer from him. I find the terms of service gave Fischer the right to require payment of the retainer before providing legal services. However, I find there is nothing in the terms of service that prohibits Fischer from starting work without a retainer, on a client's instructions. I find Mr. Dumitrescu seeks to rely on his own non-payment of the requested retainer to prove that he had not yet instructed Fischer to proceed with the work. However, I have already found Mr. Dumitrescu instructed Fischer to provide legal services, and Fischer did so. The fact that Fischer did so before it received a further retainer does not mean that Fischer is not entitled to payment for the legal services it provided.
24. Given all the above, I find that Fischer is entitled to payment of \$2,299.62 for its unpaid invoice.

### ***Contractual interest, CRT fees and expenses***

25. Fischer claims contractual interest on the unpaid invoice based on its terms of service, which says Fischer may charge interest at a rate of 18% per year on unpaid invoices. As noted above, I have already found that Mr. Dumitrescu agreed to Fischer's terms of service on January 13, 2020. I therefore find Fischer is entitled to contractual interest on \$2,299.62 from December 4, 2021, reasonably calculated from 30 days after the invoice was provided to Mr. Dumitrescu to the date of this decision. This equals \$212.07.
26. 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. I see no reason in this case not to follow that general rule. I find Fischer is entitled to reimbursement of \$125 in CRT fees. Fischer did not claim any dispute-related expenses.

### **ORDERS**

27. Within 30 days of the date of this order, I order Mr. Dumitrescu to pay Fischer a total of \$2,636.69, broken down as follows:
- a. \$2,299.62 in debt,
  - b. \$212.07 in contractual interest at 18% per year, and
  - c. \$125 in CRT fees.
28. Fischer is entitled to post-judgment interest, as applicable.
29. 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.

30. 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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Leah Volkens, Tribunal Member