



Civil Resolution Tribunal

Date Issued: July 14, 2022

File: SC-2021-008736

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *2 Burley Men Moving Ltd. v. Skorupka*, 2022 BCCRT 808

B E T W E E N :

2 BURLEY MEN MOVING LTD.

APPLICANT

A N D :

MARY SKORUPKA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about residential moving services. The respondent, Mary Skorupka, hired the applicant, 2 Burley Men Moving Ltd. (Burley), to move her belongings from her mainland home to Vancouver Island. In the Dispute Notice, Burley claimed \$2,909.68 for unpaid moving services. However, in its submissions, Burley

acknowledges that Ms. Skorupka paid \$2,547 on November 16, 2021. So, Burley has reduced its claim to \$362.68 for the unpaid balance.

2. Ms. Skorupka denies Burley's claim and says she does not owe further payment. She says that Burley charged double the amount quoted and says that she is not responsible for time wasted when Burley's moving truck broke down. Also, Ms. Skorupka says that she fully paid the invoice she received but Burley has altered and increased their invoice.
3. Burley is represented by an employee. Ms. Skorupka is self-represented.

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.

ISSUE

8. The issue in this dispute is whether Ms. Skorupka owes Burley \$362.68 for unpaid moving services.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove its claims on a balance of probabilities, which means “more likely than not.” I have read all the parties’ submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
10. Ms. Skorupka verbally hired Burley to move her personal belongings from her mainland home to 2 locations on Vancouver Island. Burley says Ms. Skorupka agreed to pay \$150 per hour for moving labour and travel, a \$100 fuel surcharge, a \$50 insurance surcharge, plus ferry fares expenses. Burley provided an appointment sheet that included these terms. Ms. Skorupka says that Burley read those terms to her over the phone.
11. Ms. Skorupka does not dispute these rates, though she complains that Burley’s final price of \$2,909.68 is more than double the \$1,300 to \$1,500 quoted before the move. However, Ms. Skorupka acknowledges that she knew the final price may exceed the quote. Burley says that it provided an estimated cost, but the contract price was based on an hourly charge for the amount of labour actually provided. On balance, I find that the parties agreed to an hourly rate price and I find that that Burley only provided a non-binding estimate. So, I find that the parties agreed that the contract price would be calculated on an hourly basis, plus expenses.
12. So, how many hours of moving services did Burley provide?

13. Burley's October 28, 2021 waybill has the following time records, "Arrive time at: 9:15 + 10:00, Finished at 4:15 + 11:10, Total time: 4:00, Extra travel outbound: 3:45 + 45 Extra travel inbound: 5:45 Total time: 10:15 2." In the absence of an explanation, I find these time notes are unhelpful in determining how many hours Burley worked over a 2-day period.
14. KK, a Burley employee, provided a November 9, 2021 email itemizing Burley's work times. The email says that it took 3 hours 45 minutes to travel from its business site on Vancouver Island to Ms. Skorupka's pickup location on the mainland on October 28, 2021. Since this travel time is not disputed, I accept it as accurate.
15. Both parties agree that Burley arrived at the mainland pickup location and began loading at 9:15 a.m. Ms. Skorupka says that Burley left the pickup location at 10:50 to head to the first drop-off location on Vancouver Island by ferry. Ms. Skorupka says that she left the pickup location separately with plans to meet Burley's truck on the ferry. However, she says that Burley's truck was not on the ferry. Ms. Skorupka says that she arrived at the first drop-off location at 3:50 pm. Since Burley does not dispute this, I accept this as accurate.
16. It is undisputed that Burley's truck broke down and did not arrive at Ms. Skorupka's first drop-off location on October 28, 2021 as planned. I find that in an open-ended hourly rate contract such as this, there is an implied contractual term that the hours spent were reasonably required and put to some useful purpose (see the non-binding but persuasive CRT decision *Simple Moves North Shore Movers Inc. v. Kenney*, 2022 BCCRT 452). So, I find that Ms. Skorupka is not responsible for delays resulting from Burley's trucks mechanical problems.
17. Since Ms. Skorupka and Burley were both traveling from the mainland pickup site to the Vancouver Island drop-off sites, I find that Burley could have arrived at the drop-off site at the same time as Ms. Skorupka if its truck had not broken down. So, I find Burley performed 6 hours 35 minutes of moving work for Ms. Skorupka from 9:15 am to 3:50 pm to move her belongings from the pickup location to the first drop-off location.

18. Burley's truck arrived at the first drop-off location on September 29, 2021. Ms. Skorupka says Burley started unloading at 10:10 am on September 29, 2021 and it completed the unloading at the second drop-off site at 11:50. Since Burley did not itemize its unloading time, I find that Ms. Skorupka's unloading time records are more reliable than Burley's evidence and I accept Ms. Skorupka's records as accurate. So, I find that Burley spent 1 hour 40 minutes unloading Ms. Skorupka's items on September 29, 2021.
19. Burley says it took 1 hour to drive from the second drop-off location back to its business site. Since Ms. Skorupka did not dispute this, I accept this as accurate.
20. Based on the above, I find that Burley spent a total of 13 hours of labour for Ms. Skorupka on October 28 and 29, 2021. At the contractual rate of \$150 per hour, I find that Ms. Skorupka owed \$1,950 for moving labour, plus \$97.50 tax. In addition, since Ms. Skorupka does not dispute the invoiced expenses, I find that she owed the \$515.31 for ferry fares, \$100 for a fuel surcharge, \$50 for insurance, and \$5.37 for supplies.
21. In total, I find that Ms. Skorupka owed Burley \$2,718.18 for moving services. Since Ms. Skorupka paid Burley \$2,547, I find that she owes an unpaid balance of \$171.18.

CRT fees, expenses and interest

22. The *Court Order Interest Act* (COIA) applies to the CRT. I find that Burley is not entitled to pre-judgment interest starting on the date it issued its October 29, 2021 invoice because I find that invoice was confusing, as discussed above. Without providing a clear invoice, I find that Burley is entitled to pre-judgment interest on the \$171.18 in unpaid work from the November 15, 2021, the date it applied for dispute resolution, to the date of this decision. This equals \$0.51.
23. 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.

Since Burley was partly successful, I find that it is entitled to reimbursement of one-half of its CRT fees, being \$67.50. Neither party claimed reimbursement of dispute-related expenses, so none are ordered.

ORDERS

24. Within 30 days of the date of this order, I order Ms. Skorupka to pay Burley a total of \$239.19, broken down as follows:
 - a. \$171.18 in unpaid work,
 - b. \$0.51 in pre-judgment COIA interest, and
 - c. \$67.50 in CRT fees.
25. Burley is entitled to post-judgment interest, as applicable.
26. 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. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Richard McAndrew, Tribunal Member