



# Civil Resolution Tribunal

Date Issued: August 5, 2022

File: SC-2022-000026

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Morin v. Scrubbi Holdings Incorporated*, 2022 BCCRT 892

BETWEEN:

CYNDY MORIN

**APPLICANT**

AND:

SCRUBBI HOLDINGS INCORPORATED

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Richard McAndrew

## INTRODUCTION

1. This dispute is about cleaning services. The applicant, Cyndy Morin, hired the respondent, Scrubbi Holdings Incorporated (Scrubbi), to clean her mother's home. Ms. Morin says Scrubbi's cleaning work was incomplete and she claims a \$384.30 refund.

2. Scrubbi denies Ms. Morin's claim. Scrubbi says its work is nonrefundable.
3. Ms. Morin is self-represented and is a lawyer. Scrubbi is represented by an employee or principal.

## **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 Scrubbi owes Ms. Morin a \$384.30 refund for providing allegedly incomplete cleaning services.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, Ms. Morin, as the applicant, must prove her claim on a balance of probabilities, meaning “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. Morin telephoned Scrubbi on March 27, 2021 to discuss hiring it to clean her mother’s home. In the recorded telephone call, Scrubbi said it would clean the home for a flat fee of \$384.30. Scrubbi said its services would include vacuuming, sweeping, mopping, and dusting baseboards. Scrubbi also said it would clean the exterior of all kitchen appliances and the interior of the oven and microwave. Scrubbi said this cleaning would be performed in the bathrooms, kitchen, living room, bedrooms, and basement.
11. During the March 27, 2021 telephone call, Scrubbi also told Ms. Morin that its work was nonrefundable and subject to the terms and conditions on the written quote and its website. Scrubbi emailed Ms. Morin a written quote on March 27, 2021 which said that payment is nonrefundable for unsatisfactory work. Ms. Morin agreed over the phone to Scrubbi’s terms and paid Scrubbi \$384.30. In so doing, I find that Ms. Morin hired Scrubbi and the parties entered a contract on the terms discussed during the telephone call.
12. Scrubbi cleaned Ms. Morin’s mother’s home on March 29, 2021. Ms. Morin says the cleaning work was incomplete and she requests a refund. Scrubbi argues that it does not owe a refund because the contract said unsatisfactory work was nonrefundable. However, regardless of whether the work was nonrefundable for dissatisfaction, I find that the contract included implied terms that Scrubbi’s cleaning services would be

performed in a good and professional manner and that Scrubbi would complete the work it agreed to perform.

13. To prove that Scrubbi's work was deficient, Ms. Morin must prove that Scrubbi breached their agreement by failing to properly clean her mother's home (see, *Lund v. Appleford Building Company Ltd. et al*, 2017 BCPC 91 at paragraph 124).
14. Ms. Morin's mother, FK, provided a May 6, 2022 statement saying that Scrubbi did not fully clean their home. They wrote that Scrubbi left footprints on the hardwood and water marks and streaks on the stove. They also said the edges of the dishwasher were not cleaned, there was cat hair on the carpet and the garage was left dirty. Ms. Morin provided photographs that appear to show hair on the carpets, and some dust or debris on portions of the baseboards and floors. The photographs also appear to show discolouration inside a dishwasher and blemishes and dust on an apparent oven drawer. Scrubbi did not dispute this evidence or provide a statement from its cleaning employee.
15. Based on the recorded March 27, 2021 telephone call, I find that the contract did not include cleaning the garage or the inside of the dishwasher. So, I find that Scrubbi did not breach the contract by not cleaning these areas. However, based on FK's statement and the photographs, I find that Scrubbi failed to completely vacuum, sweep the floors, dust the baseboards, and clean the oven as contractually required.
16. Neither party provided evidence showing how long Scrubbi worked at the house or how long it took FK to complete a second cleaning after Scrubbi left. In the absence of such evidence, I find on a judgment basis that Scrubbi performed 50% of the cleaning work it was hired to perform. Since I find that Scrubbi is not entitled to keep payment for work it did not perform, I find that Scrubbi must refund Ms. Morin 50% of its cleaning fees. This equals \$192.15.

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

17. The *Court Order Interest Act* (COIA) applies to the CRT. Ms. Morin is entitled to pre-judgment interest on the \$192.15 refund from March 30, 2021, the date she requested a refund, to the date of this decision. This equals \$1.41.
18. 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 Ms. Morin was partially successful, I find she is entitled to reimbursement of one-half of the CRT fees, being \$67.50.
19. Ms. Morin requests reimbursement of \$41.80 in courier fees as a dispute-related expense. However, Morin has not provided a supporting receipt or explained how this alleged expense was related to her participation in this dispute. So, I dismiss Ms. Morin's request for reimbursement of this expense. Scrubbi did not request reimbursement of dispute-related expenses.

### **ORDERS**

20. Within 30 days of the date of this order, I order Scrubbi to pay Ms. Morin a total of \$261.06, broken down as follows:
  - a. \$192.15 as a refund for unperformed work,
  - b. \$1.41 in pre-judgment COIA interest, and
  - c. \$67.50 in CRT fees.
21. Ms. Morin is entitled to post-judgment interest, as applicable.

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. 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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Richard McAndrew, Tribunal Member