



Civil Resolution Tribunal

Date Issued: August 10, 2022

File: SC-2022-001467

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sodhi Productions Inc. v. Vaughan*, 2022 BCCRT 899

BETWEEN:

SODHI PRODUCTIONS INC.

APPLICANT

AND:

RAYCE VAUGHAN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. This dispute is about film sound-mixing work. The applicant, Sodhi Productions Inc. (Sodhi), says it hired the respondent sound engineer, Rayce Vaughan, to provide post-production audio services on Sodhi's film, Superhero. Sodhi says Mr. Vaughan's work was "incomplete, poor quality, defective, and delayed". Sodhi seeks a refund of the \$2,000 down payment it paid for the audio work.

2. Mr. Vaughan says the production audio was worse quality than expected and, despite the “cleanup process”, some scenes still suffered from poor audio quality, which would require Automated Dialogue Replacement (ADR). Mr. Vaughan denies his work was incomplete or of poor quality. Mr. Vaughan further denies the work was delayed. He refuses any refund.
3. Sodhi is represented by its founder and CEO, Inderveer Sodhi. Mr. Vaughan represents himself.

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.

ISSUE

8. The issue in this dispute is whether Sodhi is entitled to a \$2,000 refund for allegedly defective sound-mixing work.

EVIDENCE AND ANALYSIS

9. In a civil claim such as this, the applicant Sodhi 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. Sodhi relies on two contracts it signed with Mr. Vaughan. The first is a “Contract of Employment” dated November 27, 2021 which sets out the terms of the parties’ agreement (employment contract). It states that Mr. Vaughan was hired for a flat fee of \$4,000, with \$2,000 due “up front” and \$2,000 due upon delivery of “the film’s final sound mix”. Mr. Vaughan’s responsibilities included “dialogue cleanup and editing, mixing, mastering, and the delivery of the sound mix” for the movie, to all “industry standard responsibilities of a ‘Re-Recording Mixer’”. There are no specific timelines for deliverables related to the work contained in the employment contract.
11. The employment contract further states that if Mr. Vaughan breaks any of the contract’s terms, any payments made by Mr. Sodhi are to be returned upon request. Similarly, if any terms are broken by Mr. Sodhi, Mr. Vaughan is entitled to keep any payments made. The contract is signed by both Mr. Vaughan and Mr. Sodhi.
12. The second contract is a Non-Disclosure Agreement (NDA). Although mostly about the disclosure of Confidential Information (as defined in the NDA), clause 25 states that Mr. Vaughan agreed to “follow through with all pending communication, and

deliver all requested work on time”. Repeated failure to do so “may result” in his termination from the film. The contracts state that a breach of one contract may be considered a breach of the other.

13. Sodhi argues both that Mr. Vaughan’s work was substandard, and that it was delayed to such an extent that Sodhi was entitled to terminate the contracts and seek a refund. Sodhi says that Mr. Vaughan advised it that the sound work would only take “just over a month and some leeway”. Mr. Vaughan undisputedly started the work on November 24, 2021, after some technical difficulties which were not his fault. It is also undisputed that Sodhi’s associate producer, TN, terminated the parties’ agreement on February 23, 2022. Sodhi says it wasted 4 months waiting for Mr. Vaughan’s deliverables before ultimately terminating the agreement (though I note only 3 months had passed). However, I find Mr. Vaughan did not breach any term of either contract as it relates to delay.
14. I say this because there was admittedly no definitive timeline for completion of the sound work. Although Sodhi says it wanted the work done in “about a month”, I find text messages in evidence show Mr. Vaughan kept Mr. Sodhi apprised of delays he was having due to production sound quality. At the end of December 2021, Mr. Vaughan advised Sodhi he needed “a few more weeks on the cleanup process”. Mr. Sodhi responded telling Mr. Vaughan “no rush... take your time” and saying they were not on any tight deadlines. So, I find Mr. Vaughan did not breach the NDA or the employment contract by not delivering requested work on time.
15. Next, I turn to Sodhi’s allegations about Mr. Vaughan’s quality of work. As noted above, it was a term of the parties’ contract that Mr. Vaughan’s work was to be completed to the “industry standard responsibilities” of a Re-Recording Mixer. Generally, when a party alleges that a professional’s work was below a reasonable standard, they must provide evidence to prove the standard of care (see: *Bergen v. Guliker*, 2015 BCCA 283). The two exceptions to this rule are when the deficiencies are not technical in nature, or where the work is obviously substandard (see:

Schellenberg v. Wawanesa Mutual Insurance Company, 2019 BCSC 196 at paragraph 112).

16. Sodhi provided a 2 hour and 37 minute audio track of the movie, and pointed out certain timestamps where it says the dialogue is not adequate. I am unable to determine from this audio recording whether any changes in the audio are a result of Mr. Vaughan's work, or are from the production audio. Also, although I note some voices are muffled, the evidence is that one of the characters was wearing a mask. I do not find Mr. Vaughan's work was obviously substandard.
17. Therefore, I find that Sodhi requires expert evidence to prove the standard of care, and that Mr. Vaughan breached this standard. This is because the standards expected of a "Re-Recording Mixer" are outside the common knowledge of an ordinary person. Although Sodhi alleges Mr. Vaughan failed to implement basic "isolation techniques" while cleaning up the dialogue, Mr. Vaughan explained that there is a multi-step process for cleaning dialogue, where "isolation" is one aspect. Mr. Vaughan says he went through the necessary steps, and the dialogue still needed work, so he recommended Sodhi review the work, decide what parts would require ADR, and provide Mr. Vaughan with a list, which Sodhi undisputedly did not do. Because there is no evidence of the standard of care, I find that Sodhi has not proven that Mr. Vaughan breached the parties' contract by failing to meet the requisite industry standards.
18. In summary, I find there is no indication Mr. Vaughan breached either the employment contract or the NDA. Therefore, I find Sodhi was not entitled to ask for a refund, and by doing so, is the party who breached the contract. So, pursuant to the parties' agreement, Mr. Vaughan is entitled to keep any payments made. I dismiss Sodhi's claims.
19. 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. Sodhi was unsuccessful, so I dismiss its claim for reimbursement of tribunal fees. Mr. Vaughan did not pay any tribunal fees or claim any dispute-related expenses.

ORDER

20. Sodhi's claims, and this dispute, are dismissed.

Andrea Ritchie, Vice Chair