



Civil Resolution Tribunal

Date Issued: August 15, 2022

File: SC-2022-000060

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. v. Schwitzer, 2022 BCCRT 917*

B E T W E E N :

ASLAN ELECTRICAL, PLUMBING, GASFITTING, REFRIGERATION &
SHEETMETAL SERVICES LTD.

APPLICANT

A N D :

JENNIFER SCHWITZER

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkens

INTRODUCTION

1. This dispute is about payment for plumbing and electrical services. The applicant, Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd.

(Aslan), says it performed work for the respondent, Jennifer Schwitzer, but she has refused to pay two invoices. Aslan claims a total of \$381.19 for two unpaid invoices.

2. Mrs. Schwitzer says Aslan charged for work that was not completed in one invoice, and says she did not authorize the work charged in another invoice. Mrs. Schwitzer says she has already paid for the authorized and completed work, and owes nothing more.
3. Aslan is represented by an employee, BW. Mrs. Schwitzer 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. In some respects, both parties in this dispute call into question the credibility, or truthfulness, of the other. 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.
8. The Dispute Notice generated by the CRT on January 10, 2022 shows Aslan's name as:
ASLAN
ELECTRICAL,PLUMBING,GASFITTING,REFRIGERAT
SHEETMETAL SERVICES LTD.
9. However, Aslan's correct legal name on its BC Company Summary in evidence, including the unusual spacing, is Aslan Electrical,Plumbing,Gasfitting,Refrigeration& Sheetmetal Services Ltd. So, that is the name I have used in the style of cause above, not the cut-off version in the CRT's Dispute Notice.

ISSUE

10. The issue in this dispute is whether Aslan is entitled to the claimed \$381.19.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant Aslan 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.
12. As noted, Aslan seeks payment of the outstanding balance on two invoices. It says the work was done and its invoices need to be paid.

September 21, 2021 invoice

13. Aslan's September 21, 2021 invoice charged \$810.60 for work performed between September 8 and September 21, 2021 to investigate bathroom faucets that would not shut off. The invoice notes that Aslan checked the plumbing, replaced hot and cold

water tap cartridges, checked for leaks, and tested for operation. The invoice included the following charges, plus GST:

- a. \$686 for labour, billed at \$98 per hour for 7 hours,
- b. \$76 for mileage, billed at \$0.95 per kilometre for 80 kilometres, and
- c. \$10 for shop supplies.

14. Mrs. Schwitzer undisputedly paid \$610.60 towards the September invoice, leaving \$200 outstanding.
15. Mrs. Schwitzer does not dispute that she asked Aslan to attend at her home to disable two faulty faucets that were running on September 8, 2021. However, Mrs. Schwitzer raises issues with Aslan's work on September 9, 15, and 21, and says she did not sign a work authorization until September 15. I note that Aslan's September invoice does not include any charges for September 9. Mrs. Schwitzer also included a statement that refers to work on September 10. So, I find her submissions about September 9 work was an inadvertent error, and meant to refer to Aslan's September 10 work.

September 10 charge

16. Mrs. Schwitzer says that Aslan's September 10 charges for two technicians were unnecessary. She says her guests complained the water was running after the September 8 visit, and she called Aslan on September 10 to find out why the water was not shut off. She says she was advised that Aslan's technicians could not locate the shut-off valves. She says two Aslan technicians attended on September 10. She questions why two technicians were required, and says they did not locate or shut off the water valves in any event. She says she should not have to pay Aslan for the September 10 work on this basis.
17. Mrs. Schwitzer submitted a statement from WB. WB said they were doing maintenance for Mrs. Schwitzer on September 10, 2021 when two Aslan employees arrived. WB said the Aslan employees could not locate the shut off for each sink and

refused Mrs. Schwitzer's request that they cut into the back of the cabinet to locate of add shut offs. WB said the Aslan employees were there for about 15 minutes and the water was still running when they left, and did not have any tools with them. WB says that Mrs. Schwitzer asked WB to shut off the main water until the faucet parts arrived, and WB did so.

18. Aslan did not detail or explain its September 10 work. However, Aslan's September invoice indicates that Aslan charged for 2 hours of labour on September 10. Aslan's travel log in evidence shows that Aslan logged about one hour for time spent at Mrs. Schwitzer's home and travel time. Given all the above, I accept that Aslan travelled to Mrs. Schwitzer's home on September 10 at her request, and is entitled to charge for its technician's time travelling to her home and attempting to locate the shut off valve for the faucets, which Mrs. Schwitzer does not dispute she requested.
19. However, Aslan did not address Mrs. Schwitzer's allegation that they did not shut off the faucets as requested, or further detail its September 10 work and explain why two technicians were necessary. Although a September 10 work order in evidence indicates that Aslan has a two hour minimum labour charge, the work order was not signed by Mrs. Schwitzer. The evidence does not show that Mrs. Schwitzer was advised of or agreed to this charge. Given all the above, I find Aslan has not proved that two technicians were reasonably necessary, or that Mrs. Schwitzer agreed to a two hour minimum charge out. So, I find Aslan has only proved it is entitled to payment for one technician for one hour of labour on September 10. I find Aslan is not entitled to payment for the second hour of labour charged on September 10, which totals \$102.90 including GST.

September 15 charge

20. Mrs. Schwitzer says an Aslan technician attended at her home on September 15 and she signed a work authorization at that time for Aslan to replace the faucet cartridges. However, Mrs. Schwitzer says the technician only spent 10 minutes in the bathroom and then advised her they could not do the work that day because they did not have the necessary tools and the granite backsplashes needed to be removed to access

the faucet cartridges. She says she should not have to pay for Aslan's technician because they did not do any work and did not bring the necessary tools.

21. Mrs. Schwitzer also submitted a statement from Aaron Snider, a certified plumber who owns Edge Plumbing. I accept Aaron Snider is qualified to provide expert opinion evidence on plumbing services, and his statement complies with the CRT rules for expert evidence.
22. Aaron Snider said they have done plumbing and gas work for Mrs. Schwitzer before and are familiar with her home. They provided the following opinion:
 - a. In order to diagnose faulty tap cartridges either the individual taps or the entire home's water needed to be shut off and the faucets removed. The technician would have seen the tools needed to remove the cartridge and known that it was necessary to remove the backsplash before any replacement could be done.
 - b. In order to install the shut off valves Mrs. Schwitzer was looking for would require cutting into the back of the vanities to expose the water lines and add them.
 - c. Aaron Snider would have recommended the customer keep open or add an access panel for future access. Alternatively, as a short term solution the technician could have exposed the water lines and added caps or shut off valves to avoid shutting off the water.
 - d. If only the cold water cartridge was damaged, there was no reason to change the hot water cartridge as well and it would have taken additional time to do so.
23. An Aslan technician undisputedly visited Mrs. Schwitzer's home on September 8 to investigate the running water faucets, and ordered replacement faucet cartridges. Given this, I accept Aaron Snider's undisputed expert evidence that the technician would have seen what tools would be needed to replace the cartridge when diagnosing the faulty faucets. I find Aslan's technician should have come prepared

with the necessary tools to replace the faucet cartridges on September 15. Aslan did not dispute Aaron Snider's report or provide any contrary expert evidence. It also did not provide a statement from its technician to explain the September 15 labour charge. Finally, Aslan also did not dispute that the faucet cartridge replacement had to be rescheduled. Given all the above, I find Aslan's September 15 visit was unnecessary. Therefore, I find Aslan has not proved that it is entitled to charge Mrs. Schwitzer for 1.5 hours of labour on September 15, totaling \$147.35 including GST.

24. I have already found that Aslan has not proved it is entitled to a total of \$250.25 from its September invoice, for work on September 10 and September 15. Therefore, I find Aslan has not met its burden of proving that Mrs. Schwitzer must pay the \$200 outstanding on the September invoice, and I dismiss this portion of Aslan's claim.

25. Mrs. Schwitzer also raised issues with the mileage charged by Aslan on September 10, 15 and 21. However, she did not file a counterclaim, and I have already found that Aslan is not entitled to the \$200 claimed for the September invoice, so I find it is unnecessary to further address any issues with Aslan's September invoice.

November 3, 2021 invoice

26. Aslan's November 3, 2021 invoice charged \$181.19 for work performed on November 3, 2022 to investigate two thermostats. The invoice notes that Aslan reset and reprogrammed one thermostat, reprogrammed a second thermostat, and tested both for operation. The invoice included the following charges plus GST:

- a. \$147 for labour, billed at \$98 per hour for 1.5 hours,
- b. \$15 for "truck", and
- c. \$10.56 for materials including shop supplies.

27. Mrs. Schwitzer says Aslan previously attended her home on October 16, 2021 to investigate the thermostat issue. She says Aslan's technician replaced one thermostat with a "loaner" thermostat without her consent. She says she had already purchased a replacement thermostat to be installed. She says as a result, the

November 3, 2021 work was an unnecessary extra trip. Mrs. Schwitzer included the October 16 invoice in evidence, which indicates that Aslan replaced one thermostat at that time. I infer this was Aslan's loaner thermostat because there was no materials charge for the thermostat itself. Mrs. Schwitzer says she later replaced Aslan's loaner thermostat with her own thermostat. Aslan did not dispute this.

28. Mrs. Schwitzer says she did not agree to pay for Aslan's work charged for in the November invoice. She also says the \$10 shop charge and \$15 truck charge are unclear. She says she specifically told an Aslan dispatcher and an Aslan technician that she was not authorizing Aslan to come pick up the loaner thermostat unless it was done at no charge, and told Aslan she would drop off the loaner thermostat if there would be a charge.
29. Aslan submitted a typed transcript of a November 3 phone call between its employee SG and Mrs. Schwitzer. Aslan says it shows Mrs. Schwitzer requested the work. I place little weight on the transcript evidence because it appears to have been prepared by Aslan, and the call itself is not in evidence. Mrs. Schwitzer also says the transcript is incomplete and does not include another call she had with an Aslan employee that day where she says she again made it clear that if Aslan was going to charge for the visit she did not want Aslan's technician to attend.
30. Even if I did place weight on the transcript, I find it does not show that Mrs. Schwitzer agreed to pay Aslan for the November 3 visit. Rather, it only shows that Mrs. Schwitzer asked Aslan to do a "quick check" of her thermostats when Aslan picked up its loaner thermostat. Mrs. Schwitzer does not dispute that she asked Aslan to do a quick check of her thermostats, but says that she only did so because she had already made it clear that she would not be paying for Aslan's visit to her home to pick up the loaner thermostat. I find this is consistent with Mrs. Schwitzer's submissions about her calls with Aslan on November 3, and shows that Mrs. Schwitzer only requested the thermostat checks because she thought it would be done at no additional charge. Aslan did not say that it told Mrs. Schwitzer that she would be charged to check the thermostats when it picked up its loaner thermostat.

There is also no statement from SG or any other Aslan employee or technician to contradict Mrs. Schwitzer on this issue. Based on the evidence, I find Aslan has not proved that the parties agreed to any additional paid work on November 3. Therefore, I find Aslan is not entitled to any payment for its November invoice.

CRT fees and expenses

31. 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. Aslan was unsuccessful in this dispute, so I dismiss its CRT fee claim. Mrs. Schwitzer did not pay CRT fees or claim any dispute-related expenses, so I award none.

ORDER

32. I dismiss Aslan's claims and this dispute.

Leah Volkens, Tribunal Member