



Civil Resolution Tribunal

Date Issued: August 15, 2022

File: SC-2022-001288

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bansal v. Jaiya*, 2022 BCCRT 924

BETWEEN:

SAMIR BANSAL

APPLICANT

AND:

RAJDEEP JAIYA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about house design services. The applicant, Samir Bansal, sent a house design service proposal to the respondent, Rajdeep Jaiya, which included making three dimensional (3D) computer models. As Rajdeep Jaiya did not specify a preferred form of address, and intending no disrespect, I will refer to each party by

their first names for consistency. Samir says Rajdeep agreed to the proposal, so Samir performed a requested site visit to the house being modelled. Samir says Rajdeep withheld the required deposit and necessary design information, and rejected further services. Samir claims \$630 in compensation for the site visit and related assessment work he says he performed.

2. Rajdeep says they were late to the site visit because Samir gave no warning, and Samir never picked up the deposit cheque. Rajdeep says this showed Samir was not interested in performing the design services, so Rajdeep hired someone else. Rajdeep says they owe nothing because the parties never agreed on a site visit payment.
3. The parties are each self-represented in this dispute.

JURISDICTION AND PROCEDURE

4. These are the formal 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. Although the parties' submissions each call into question the credibility of the other party to some extent, I find I can properly assess and weigh the written evidence and submissions before me, and that an oral hearing is not necessary in the interests of justice. In the decision *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not always needed where credibility is in issue. Keeping in mind that the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions

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. In his reply submissions, Samir requested that the CRT ask Rajdeep for their phone call records. Under the CRT's rules, parties must provide all evidence in their possession that may prove or disprove an issue in the dispute. However, Samir did not explain why Rajdeep's phone records were necessary when Samir's own submitted records showed both ingoing and outgoing calls to Samir's phone. Further, parties may request evidence by summons under rule 8.2 and CRTA section 33, or by asking for a production order under rule 8.8 and CRTA section 34. The evidence does not show that Samir made a timely request under rule 8.2 or 8.8, or that he followed those rules' procedural requirements. So, I decline to request further evidence from Rajdeep at this late stage of the dispute process, because I find it would be procedurally unfair to do so. I also find further phone records would be of limited value, given that Samir's phone records are in evidence.

ISSUES

9. The issue in this dispute is whether Rajdeep is responsible for paying Samir \$630 or another amount for the value of his house design work.

EVIDENCE AND ANALYSIS

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

11. The undisputed evidence is that Rajdeep contacted Samir about design work on February 1, 2022, and Samir sent Rajdeep a written proposal the same day. The proposal broke the work into 2 parts. The first part was to complete a 3D house model by the tentative date of February 4, 2022. This first part required a 50% advance payment of \$1,000 plus GST. The second part was to prepare a final image of the house by the tentative date of February 7, 2022, for an additional 50% payment of \$1,000 plus GST. The proposal contained no other payment terms. Samir undisputedly requested design drawings and interior drawings from Rajdeep so he could complete the modelling work.
12. Rajdeep says they expected Samir to develop a further estimate based on a site visit to the house, and would then decide whether to hire Samir. However, I find that is not supported on the evidence before me. I find text message and email correspondence shows, and the parties confirm, that Rajdeep agreed to give Samir a cheque for the 50% advance payment at noon on February 2, 2022, at a particular address. I find the evidence does not show that Rajdeep asked for any changes to the proposal or the price, or indicated that they were still deciding whether to hire Samir. I find that by agreeing to provide the first 50% payment set out in the proposal, with no proven conditions or changes, Rajdeep agreed to the proposal on February 1, 2022. So, I find the proposal became a binding contract.
13. The parties each say the other requested a change to the noon February 2, 2022 cheque pickup meeting. They each say the other party instead asked for a site visit and cheque transfer later that day at the house Samir would be modelling. Samir says Rajdeep confirmed a 5:00 p.m. meeting time in advance, while Rajdeep says Samir gave no warning before calling Rajdeep from the house. However, I find nothing turns on that, as both parties say that they agreed to meet at the house.
14. Rajdeep undisputedly gave Samir a lockbox code over the phone so he could enter the house to view it and take photos, which Samir undisputedly did. Samir says he was there for 1 hour, but despite Rajdeep's assurances, Rajdeep did not arrive. So,

Samir left. Rajdeep confirms that they were unable to attend at the time they told Samir.

15. There is no evidence that the parties communicated again until February 8, 2022 when Samir emailed a request for house drawings so he could develop the models. There was no response. On February 14, 2022, Samir sent Rajdeep an invoice for \$630 for the value of the site visit and related assessment work. Samir said Rajdeep was not answering calls and was not interested in getting the job done. Rajdeep replied that they did not agree to a site visit payment, and they did not hire Samir or “confirm the job”.
16. As noted above, I find Rajdeep did hire Samir and confirm the job. I also find that by failing to proceed with Samir’s services, Rajdeep repudiated the contract. When faced with repudiation, a party may demand that the other party follow the contract, or may accept the repudiation and seek damages. I find that by sending the site visit invoice for services performed to that date, and saying that Rajdeep was not interested in getting the job done, Samir accepted the repudiation and was entitled to seek damages.
17. In this dispute, Samir claims the alleged value of the work he actually performed for Rajdeep, namely the site visit and related assessments based on permit drawings.
18. Although Rajdeep says he never agreed to pay for a site visit, I find it was an implied term of the parties’ agreement that Rajdeep would pay Samir a reasonable amount for the work he performed if Rajdeep ended the contract before the work was completed. This is known in law as contractual *quantum meruit* (see *Hodder Construction (1993) Ltd. v Topolnisky*, 2021 BCSC 666 at paragraph 178).
19. The parties do not deny that Samir’s site visit was reasonably necessary for the contracted modelling work. The question is, what was the value of Samir’s site visit and alleged assessment work?

20. I find there is no evidence before me showing whether Samir performed any assessment work, beyond taking photographs of the house. I find he has not met his burden of proving the value or existence of any assessment work.
21. As for the site visit, I find the evidence before me does not show an hourly rate for Samir's work, or a number of kilometres driven or amount of fuel consumed, although Samir says it took 90 minutes to drive to the house. I find the submitted evidence does not show what Samir or a similarly qualified designer would typically charge for a 1 hour site visit plus travel costs. Rajdeep says Samir's invoice was not reasonable, but does not say what a reasonable amount would be. I note that the \$630 invoice was for both the site visit and alleged construction assessment, but I found the assessment has no proven value. On a judgment basis, I find Samir is entitled to \$250 for the value of his time and travel for the site visit.

CRT Fees, Expenses, and Interest

22. Samir's invoice said interest on overdue accounts was charged at 26.825% per year. However, I find the evidence does not show that Rajdeep agreed to such interest charges. In the absence of an agreement about interest, I find Samir is entitled to pre-judgment interest under the *Court Order Interest Act* (COIA) on the \$250 owing. I find this pre-judgment interest is reasonably calculated from the February 14, 2022 invoice date until the date of this decision. This equals \$0.96.
23. Under section 49 of the CRTA, and the 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 Samir was partly successful, so he is entitled to reimbursement of half the CRT fees he paid, which equals \$62.50. Rajdeep paid no CRT fees, and neither party claims CRT dispute-related expenses.

ORDERS

24. I order that, within 30 days of the date of this decision, Rajdeep pay Samir a total of \$313.46, broken down as follows:
- a. \$250 in debt,
 - b. \$0.96 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 in CRT fees.
25. Samir is also entitled to post-judgment interest under the *Court Order Interest Act*, 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.

Chad McCarthy, Tribunal Member