



Civil Resolution Tribunal

Date Issued: August 30, 2022

File: SC-2022-001000

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Eco Property Maintenance Inc v. Thomas*, 2022 BCCRT 965

BETWEEN:

ECO PROPERTY MAINTENANCE INC

APPLICANT

AND:

COURTNEY THOMAS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about garden maintenance services.
2. The applicant, Eco Property Maintenance Inc (Eco), says it has not been paid for garden maintenance services provided to the respondent, Courtney Thomas. Eco claims \$346.50 for its unpaid services.

3. Ms. Thomas says Eco invoiced her for 3 visits, but only attended at her home once. She says Eco did not perform all the agreed to garden maintenance work when it did attend. She says she has already paid \$115.50, which she wants returned, and says she is not responsible to pay anything further. Ms. Thomas did not file a counterclaim.
4. Eco is represented by an employee. Ms. Thomas is self-represented.

JURISDICTION AND PROCEDURE

5. 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.
6. 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. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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. I also note that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

7. 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.
8. 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.
9. 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.

Late evidence

10. Eco provided all of its documentary evidence late, after the parties had already provided submissions. Ms. Thomas was provided with an opportunity to review and provide submissions on this late evidence, so I find there is no actual prejudice in allowing this late evidence. Consistent with the CRT's flexible mandate, I have allowed and considered this late evidence as I find it relevant.

ISSUE

11. The issue in this dispute is what amount, if any, Ms. Thomas must pay Eco for its garden maintenance services.

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, as the applicant Eco 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. Eco chose not to make any final reply submissions despite having the opportunity to do so.

13. The parties agree that in March 2020, Ms. Thomas hired Eco to perform monthly garden maintenance services at her home at a rate of \$110 per month.
14. As noted, Eco claims \$346.50 for unpaid monthly services it allegedly provided in April, May and June 2020. I note that the \$346.50 claimed equals \$115.50 per month for 3 months. The evidence indicates the additional \$5.50 per month is GST on the agreed \$110.
15. Eco says it attended Ms. Thomas's home in April and early June. Eco did not identify any general timeframe for the alleged third visit, and did not identify the specific dates for any of the three alleged visits. Although Ms. Thomas says Eco invoiced her for 3 visits, the only invoice in evidence is a May 31, 2020 invoice, which I discuss below. Eco also did not detail the work that was completed, or provide statements from its employees to confirm that they attended at Ms. Thomas's home and provided the agreed to garden maintenance services. Eco says it has emails and timecards to support the work that was completed. However, Eco did not submit any timecards in evidence and none of the emails in evidence prove the work was completed.
16. As noted, the only invoice in evidence is a May 31, 2020 invoice for \$115.50 for "May 2020" garden maintenance services. Although the invoice was addressed to Ms. Thomas's partner, MT, the parties agree that Ms. Thomas contracted with Eco for the garden maintenance services.
17. Ms. Thomas says Eco did not attend in May. Despite claiming for services it allegedly provided in April, May, and June, Eco admits that it did not attend in May. Eco says it issued the invoice with its May "generated invoices" but did not complete the visit until early June. Ms. Thomas does not dispute that an Eco employee attended in early June, but says they only stayed for 20 minutes and did not complete the garden maintenance services the parties agreed to. Despite this, Ms. Thomas says she eventually paid \$115.50 for the May 30, 2021 invoice because this is the only time Eco completed any garden maintenance work. A screenshot of what I infer is Ms. Thomas's online banking shows that she e-transferred Eco \$115.50 on February 7, 2022. In an email to Ms. Thomas, Eco says it never accepted the \$115.50 payment

and it should be back in Ms. Thomas's account in 30 days, and referred to photographs of accounts showing e-transfers from that period that do not show Ms. Thomas's e-transfer. However, Eco did not provide the account photographs it referred to in the email. So, I find the available documentary evidence supports Ms. Thomas's submissions that she has paid Eco \$115.50. On balance, I find Ms. Thomas has already paid Eco \$115.50 for its May 30, 2021 invoice. In her submissions, Ms. Thomas says she wants the \$115.50 returned to her. However, as noted she did not file a counterclaim and does not dispute that an Eco employee attended in early June 2020 and did some work. So, I find she has not proven she is entitled to any set-off.

18. So, the question is whether Eco is entitled to payment of the remaining \$231 claimed for two further visits. Eco says it attended in late April, but as noted, Eco did not identify when the third visit occurred. Ms. Thomas says Eco did not attend at any other time to perform garden maintenance services.
19. As noted above, Eco has the burden of proving its claims on a balance of probabilities. Without further details of when Eco visited Ms. Thomas's home to provide gardening services, statements from its employees, or documentary evidence such as invoices and timecards, I find Eco has not met its burden. I find Eco has not proved it attended Ms. Thomas's house on two other occasions to complete gardening services, or that it is entitled to any further payment. So, I dismiss Eco's claims.

CRT fees and expenses

20. 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. Eco was unsuccessful in its claims, so I dismiss its fee claim. Ms. Thomas did not pay any CRT fees, and neither party claimed dispute-related expenses.

ORDER

21. I dismiss Eco's claims and this dispute.

Leah Volkens, Tribunal Member