



Civil Resolution Tribunal

Date Issued: October 4, 2022

File: SC-2022-001398

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Madden v. McBride*, 2022 BCCRT 1085

BETWEEN:

MAX MADDEN and MADDEN SOLUTIONS LTD.

APPLICANTS

AND:

JANE MCBRIDE

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about a residential move. The respondent, Jane McBride, hired the applicant, Madden Solutions Ltd. (MSL), to pack and move her household possessions. The other applicant, Max Madden, is listed as MSL's business contact in this dispute. I find Mr. Madden is likely an employee or principal of MSL.

2. Ms. McBride undisputedly refused to pay for the move. The applicants claim the full amount of the unpaid MSL invoice, which totals \$4,551.75. Ms. McBride says MSL did not complete the move as agreed but does not say how much she ought to pay, if anything.
3. Ms. McBride is self-represented in this dispute. Mr. Madden represents both applicants.

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. 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.

ISSUES

8. The issue in this dispute is whether MSL completed the move as agreed, and if so, whether Ms. McBride owes the applicants \$4,551.75.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicants must prove their 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. Ms. McBride chose not to submit any documentary evidence and provided no submissions other than her initial Dispute Response, despite having opportunities to do so.
10. At the outset, I note that originally only Mr. Madden applied for CRT dispute resolution. He later amended the Dispute Notice to add MSL as an applicant. Mr. Madden does not explain why he is a named applicant in this dispute, in addition to MSL. I find the evidence shows, and the parties do not dispute, that Ms. McBride contracted with MSL for the move at issue here. I find the evidence does not show that Mr. Madden personally contracted with Ms. McBride, or that Ms. McBride owes him anything for the move. So, I dismiss the claims of the applicant Mr. Madden, and I consider below whether Ms. McBride owes anything to the other applicant, MSL.
11. Ms. McBride previously used MSL for residential moves in 2015 and 2016, as shown on submitted MSL invoices. In June 2021, Ms. McBride arranged for MSL to move her household possessions to her new residence and to storage lockers in November 2021. There was no written contract, and the parties’ agreement was made verbally and clarified in follow-up emails. MSL provided packing services for Ms. McBride on November 22 and 23, 2021, and moved her possessions on November 23 and 24, 2021, to accommodate the schedules of both MSL and Ms. McBride’s house cleaners. None of this is disputed.

12. Ms. McBride says that MSL's packing and moving was unprofessional. Specifically, she takes issue with the quality of packing provided, the lack of mover supervision, and says MSL failed to move some items, among other complaints. However, I find Ms. McBride does not directly allege that MSL damaged or lost any of her property, or that MSL caused her to incur any out-of-pocket expenses or other losses for the allegedly poor quality of its services. I find Ms. McBride alleges MSL broke the parties' agreement by not properly providing the services as agreed, and so she is entitled to an unspecified reduction in MSL's moving fees, which is known as a set-off.
13. MSL, like any other contractor, is entitled to be paid if it substantially completed the contracted services. The burden is on MSL to prove that the services were substantially completed. If Ms. McBride, as a customer, says there were problems with MSL's work, she may claim a set-off as damages for breaches of their contract. However, she must still pay MSL's invoice subject to any deduction for deficient work: see *Belfor (Canada) Inc. v. Drescher*, 2021 BCSC 2403. As the customer alleging that MSL's work was deficient, she bears the burden of proving the deficiencies: see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61.
14. The parties do not dispute that Ms. McBride hired MSL to provide packing services, and to move some of her possessions to her new residence and others to storage lockers. MSL also undisputedly arranged for Ms. McBride's storage locker rental. I find MSL's invoice to Ms. McBride shows that it provided both packing and moving services on an hourly basis. Ms. McBride does not deny that MSL provided the number of hours of services shown on the submitted invoice, which totals \$4,551.75. Ms. McBride also does not dispute that if MSL properly provided all of the agreed services, she would owe that invoiced amount.
15. I find it was an implied term of the parties' contract that MSL would act reasonably and efficiently in providing its services. However, I find the evidence does not show that MSL agreed to complete the move by a specific time, or in a specific manner, or for less than a certain number of labour hours. The evidence also does not show any agreement to complete all of Ms. McBride's packing for her, or to place items in the

storage lockers in a specific way. So, I find Ms. McBride's general complaints that items were not properly packed, properly placed in storage lockers, or moved in the first truck load, even if true, are not necessarily breaches of the parties' contract if the move was still completed reasonably and efficiently. Contrary to Ms. McBride's assertion, I also find the evidence does not show that the parties agreed Mr. Madden would be present to oversee all of the moving and packing.

16. Further, as noted Ms. McBride provided no evidence, including any that showed poor MSL packing or storage, and she does not claim that any possessions were damaged or lost in the move. Ms. McBride does not directly deny the statement of EC, an MSL employee who provided packing services, that Ms. McBride was not present very often during packing and that EC followed Ms. McBride's directions about the required degree of packing and protection. An MSL employee who provided moving services, DE, said in their submitted statement that the movers reasonably accommodated Ms. McBride's requests and concerns during the move, which Ms. McBride does not refute.
17. Ms. McBride does not directly deny that most of her possessions were moved by the end of November 24, 2021. Submitted correspondence suggests MSL may have moved a couple of remaining items on the morning of November 25, 2021, but that is unclear on the evidence before me. Further, I find DE's and EC's witness statements support that MSL substantially completed the agreed services by November 24, 2021. So, I find that MSL has met its burden of proving that it substantially completed the agreed services. This means that Ms. McBride owes MSL \$4,551.75, subject to any set-off for substandard work.
18. Ms. McBride says that MSL missed moving a cupboard's contents, and that it disassembled but did not move a chandelier, so she had to move those items herself. However, she does not directly deny DE's statement that DE and Ms. McBride did a walk-through of the home after the moving truck was loaded, and Ms. McBride confirmed that all of the moving work had been completed at that initial location. So,

I find the evidence shows that MSL did not miss any items that it was required to move.

19. On the submissions and evidence before me, and for the above reasons, I find Ms. McBride has not met her burden of proving that any of MSL's work was substandard, inefficient, or unreasonable. So, I find she is not entitled to any set-off from the amount owing for the move. I allow MSL's claim for \$4,551.75 in unpaid moving fees.

CRT Fees, Expenses, and Interest

20. The *Court Order Interest Act* (COIA) applies to the CRT. I find that under the COIA, MSL is entitled to pre-judgment interest on the \$4,551.75 owing. The moving invoice said it was due on November 30, 2021, so I find interest is reasonably calculated from that date until the date of this decision. This equals \$32.09.
21. 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. Here, I see no reason not to follow that general rule. MSL was successful against Ms. McBride in this dispute. MSL's representative, Mr. Madden, paid \$175 in CRT fees. So, I find MSL is entitled to reimbursement of the \$175 in paid CRT fees. Ms. McBride paid no CRT fees and no party claimed CRT dispute-related expenses, so I order no further reimbursements.

ORDERS

22. I order that, within 30 days of the date of this decision, Ms. McBride pay MSL a total of \$4,758.84, broken down as follows:
 - a. \$4,551.75 in debt,
 - b. \$32.09 in pre-judgment interest under the COIA, and
 - c. \$175 in CRT fees.
23. MSL is also entitled to post-judgment interest under the COIA, as applicable.

24. I dismiss Mr. Madden's claims against Ms. McBride.

25. 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