



# Civil Resolution Tribunal

Date Issued: October 4, 2022

File: SC-2022-001076

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *2 Burley Men Moving Ltd. v. Jenner, 2022 BCCRT 1088*

**B E T W E E N :**

2 BURLEY MEN MOVING LTD.

**APPLICANT**

**A N D :**

JAMES JENNER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. This dispute is about moving services. The respondent James Jenner hired the applicant 2 Burley Men Moving Ltd. (Burley) for a February 25, 2022 residential

move within a BC city. Burley says it completed the move but that Mr. Jenner's family member was rude and refused to pay. Burley claims \$1,583.03.

2. Mr. Jenner says Burley's crew was unprofessional and rude. Mr. Jenner also says Burley's crew was inefficient and took too long, bearing in mind Burley charged by the hour. Mr. Jenner says Burley refused to unpack at the destination location, though Burley says Mr. Jenner never booked an "unpack" service. Mr. Jenner further says Burley quoted \$600 to \$800 for the "bachelor suite" move and had said it could be done in 4 to 5 hours. Mr. Jenner also says Burley damaged his property. Mr. Jenner says he owes nothing.
3. Burley is represented by an employee or principal. Mr. Jenner is represented by a family member or acquaintance.

## **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). CRTA section 2 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. CRTA section 39 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. 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. CRTA section 42 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. Mr. Jenner had uploaded 2 evidence items that I could not open. At my request, Mr. Jenner's representative provided them. They are 2 witness statements, one from Mr. Jenner's representative and another from someone present at the destination location. The representative's statement essentially reiterates Mr. Jenner's written argument already provided, which is that Burley allegedly gave a \$600 to \$800 maximum quote and that its crew was rude and insulting at the destination location. The other witness statement similarly says Burley's crew were rude and used obscenities. I asked CRT staff to provide copies of these statements to Burley, as it is unclear if Burley was able to open them at first instance. However, bearing in mind the CRT's flexible mandate that includes proportionality, I decided not to seek Burley's submissions about these 2 statements. I say this because having considered the statements I find Burley is not prejudiced by them as they make no difference to my ultimate decision that is entirely in Burley's favour.

## **ISSUES**

9. The issues in this dispute are:
  - a. Is Burley entitled to the claimed \$1,583.03 for moving services?
  - b. To what extent, if any, is Mr. Jenner entitled to a set-off for damaged furniture and Burley's alleged unprofessional behaviour?

## **EVIDENCE AND ANALYSIS**

10. In a civil proceeding like this one, as the applicant Burley must prove its claim on a balance of probabilities (meaning "more likely than not"). I have read the parties'

submitted documentary evidence and arguments but refer only to what I find relevant to provide context for my decision.

11. The parties agree:

- a. Burley provided moving services for Mr. Jenner on February 25, 2022, for a local move within a BC city.
- b. Burley advised Mr. Jenner that its rate was \$150 per hour for 2 movers.
- c. Burley charged Mr. Jenner \$1,583.03 for its services, the amount it claims in this dispute.
- d. Mr. Jenner has not paid anything towards Burley's invoice.
- e. Mr. Jenner did not submit a "damage claim" to Burley for any property damage.

12. It is undisputed and Burley's contract shows that Mr. Jenner was moving from one bachelor suite to another. Mr. Jenner says Burley quoted him \$600 to \$800 for the move, including packing and unpacking. Burley denies giving an estimate and also points to its contract that just says "1 bachelor pack and move", with no unpacking specified. More on the contract's terms below.

### ***Moving charges***

13. Burley's February 25, 2022 waybill is also its final invoice. It is unsigned. It sets out that Burley's crew arrived at 9:15 a.m. and finished at 6:00 p.m., for a total of 8.75 hours at \$150 per hour. In addition, there is a total of 30 minutes of travel time. Further, Burley charged \$68 for packing supplies and \$50 for fuel. With \$69.37 in GST and \$8.16 PST on the packing supplies, the total equals the claimed \$1,583.03.

14. Burley's Appointment Information document sets out the same \$150 per hour rate, 30 minutes of travel, \$50 for fuel, and that it was a "pack n move" (quote reproduced as written) for a bachelor suite move. I find these were the terms of the parties'

contract. I find no evidence to support Mr. Jenner's assertion that the contract included unpacking at the final destination. As the party asserting that proposition, I find he has the burden to prove it and has not done so. In any event, this was an hourly rate contract and there is no suggestion Burley charged Mr. Jenner for any unpacking services.

15. As noted, Mr. Jenner says Burley took too long and was inefficient. In support of his position, Mr. Jenner says his goods have been moved multiple times, and again since Burley's move for a total of 8.25 hours and just under \$1,000. Burley says its time was reasonably spent and relies on a text from Mr. Jenner's representative who confirmed to Burley's driver S that Mr. Jenner "has more stuff than I remember ... I haven't seen his place in over a year". I note the parties dispute whether Mr. Jenner's representative is his family member. I find nothing turns on the nature of the relationship.
16. As noted, Burley's invoice was for 8.75 hours and I find that is close to the other movers' 8.25 hours. The fact that the other movers charged Mr. Jenner \$115 per hour is irrelevant since Mr. Jenner undisputedly agreed to pay Burley \$150 per hour. Apart from Mr. Jenner's assertion, I find no evidence Burley quoted \$600 to \$800 for the move. As noted, Mr. Jenner's representative also admitted to Burley's driver that Mr. Jenner had more belongings than initially estimated. Based on the submitted photos of Mr. Jenner's unpacked and disorganized belongings, I find the evidence does not establish that Burley could have reasonably packed and moved it all in 4 to 5 hours.
17. Mr. Jenner also argues that Burley failed to reassemble Mr. Jenner's bed. I find nothing in the parties' contract required Burley to do this. As noted, Mr. Jenner further argues that Burley's crew were rude and abusive, and Burley argues it was Mr. Jenner's representative who was rude. Notably, the rudeness allegedly occurred after the moving services had happened. Ultimately, I find nothing turns on whether either party was rude, since I find rudeness does not change the parties' contractual obligations here.

18. So, subject to any deductions for damaged goods, I find Mr. Jenner must pay the claimed \$1,583.03.

***Damaged goods***

19. In the Dispute Response filed at the outset of this dispute, Mr. Jenner's representative said on unpacking she realized "the packing was done by throwing things into boxes" and that she noticed damage to the "black desk and to the TV legs that hold the large TV".

20. Burley submitted a statement from S saying that he gave the bill to Mr. Jenner's representative who ripped it up and said they would not be paying it. However, S did not say that Mr. Jenner or his representative had ever agreed to Burley's terms and conditions (on the back of Burley's invoice/waybill). I find no evidence that Mr. Jenner or his representative ever agreed to those terms and so I find they do not bind Mr. Jenner.

21. In moving disputes, the mover has the burden of disproving negligence (see, for example, *2 Burley Men Moving Ltd. v. Fraser*, 2022 BCCRT 468, which is not binding on me but which I find persuasive.

22. However, Mr. Jenner did not pursue the damage allegations in his later submissions. While Mr. Jenner submitted photos of his belongings, I find none of them show any property damage. Further, Mr. Jenner submitted no evidence to support the value of any repair or replacements. So, to the extent Mr. Jenner argues he is entitled to a set off for property damage, I find the allegations too vague and unsupported by any valuation. I do not allow any set-off.

23. In summary, I find Mr. Jenner owes Burley the claimed \$1,583.03.

24. The *Court Order Interest Act* (COIA) applies to the CRT. I find Burley is entitled to pre-judgment interest on the \$1,583.03 under the COIA. Calculated from the February 25, 2022 move date to the date of this decision, this interest equals \$9.45.

25. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. As Burley was successful, I find it is entitled to reimbursement of \$125 it paid for CRT fees. Since Mr. Jenner was unsuccessful, I dismiss his claim for \$500 in dispute-related expenses.

## **ORDERS**

26. Within 21 days of this decision, I order Mr. Jenner to pay Burley a total of \$1,717.48, broken down as follows:

- a. \$1,583.03 in debt,
- b. \$9.45 in pre-judgment interest under the COIA, and
- c. \$125 in CRT fees.

27. Burley is entitled to post-judgment interest, as applicable. I dismiss Mr. Jenner's claim for dispute-related expenses.

28. 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.

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Shelley Lopez, Vice Chair