



Civil Resolution Tribunal

Date Issued: October 27, 2022

File: SC-2022-001873

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *305466 B.C. Ltd. v. Langstroth*, 2022 BCCRT 1180

BETWEEN:

305466 B.C. LTD.

APPLICANT

AND:

KATHLEEN ELIZABETH LANGSTROTH, ERIC DEAN LANGSTROTH,
and SUNSET ROOFING LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. This dispute is about payment for restoration work.
2. The applicant, 305466 B.C. Ltd. (305), says the respondents, Kathleen Elizabeth Langstroth, Eric Dean Langstroth, and Sunset Roofing Ltd. (Sunset), retained it to

perform restoration work, but did not pay for its services. 305, which does business as ServiceMaster Restore, claims \$2,510.52 for the work done.

3. The Langstroths say Sunset retained 305, not them. They also say they did not receive an invoice from 305. The Langstroths deny owing 305 any money.
4. 305 is represented by an employee or principal. The Langstroths are self-represented.
5. Sunset did not file a Dispute Response as required and therefore is in default, which I address below.

JURISDICTION AND PROCEDURE

6. 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.
7. 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.
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.

ISSUES

10. The issues in this dispute are:
 - a. Did the Langstroths and Sunset retain 305 to perform the restoration work?
 - b. How much, if anything, must the Langstroths and Sunset pay 305 for the restoration work?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant 305 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 the evidence and argument that I find relevant to provide context for my decision. I note 305 chose not to provide any final reply submissions, despite having the opportunity to do so.
12. As noted, Sunset is in default for failing to file a Dispute Response as required. Ordinarily, liability is assumed in default. However, for the following reasons, I decline to assume Sunset’s liability.

Did the Langstroths and Sunset retain 305 to perform the restoration work?

13. It is undisputed that in December 2019, 305 performed some restoration work at an address in New Westminster (premises) after water damage occurred.
14. 305 initially said that the respondents retained it to perform the work but in later submissions says Ms. Langstroth retained it. In support of its position, 305 submitted only a December 12, 2019 Statement of Work Authorization for the premises’ repair and/or cleaning. Ms. Langstroth signed the statement.

15. As noted, Ms. Langstroth initially said Sunset hired 305. In her later submissions, Ms. Langstroth says she recalls signing the statement but says she was never given a copy. I find Ms. Langstroth retained 305 to perform the restoration work, even though she may not have received a copy of 305's invoice or the statement.
16. I turn to the claim against Mr. Langstroth and Sunset. The legal principle known as "privity of contract" is relevant here. Privity of contract means that a contract cannot give rights or impose obligations on anyone who is not a party to a contract. In other words, a person must first agree to a contract in order to be bound by it.
17. Since Mr. Langstroth and Sunset did not sign the statement, I find that 305 does not have any enforceable rights against these respondents under that agreement. 305 did not provide any other evidence or argument that Mr. Langstroth or Sunset agreed to pay it for the restoration work in question. So, I dismiss 305's claim as against Mr. Langstroth and Sunset.

How much, if anything, must Ms. Langstroth pay 305 for the restoration work?

18. The statement included terms and conditions that Ms. Langstroth pay "all the costs of the repairs and/or cleaning, or the uncovered portion" if those costs were not paid by her Insurer/Property Manager/Landlord. There is no evidence that anyone else paid for the restoration work. 305 says that it issued invoice 20-0057 for the claimed \$2,510.52 to the respondents on March 14, 2020. However, significantly, 305 did not submit the invoice in evidence.
19. Ms. Langstroth says that she did not receive the invoice at the time that 305 says it was issued, nor did she receive a second or third notice requiring payment. Ms. Langstroth says she became aware of the "delinquent charges" when 305 contacted her in February 2022 but did not receive the invoice at that time either.
20. I find it significant that 305 did not submit a copy of the invoice during this dispute. Without the invoice, I cannot assess the specific work done, the time it took to complete that work, the rate charged and any other costs. The invoice is clearly

relevant to 305's claimed amount and parties are told during the CRT process to submit all relevant evidence. Ordinarily, failure to provide the relevant invoice would be fatal to a claim.

21. However, Ms. Langstroth does not dispute that 305 performed restoration work, nor does she allege any deficiencies in the work. Instead, her only defence against 305's claim is that she was not provided with either the statement or the invoice. Even if Ms. Langstroth was not given the invoice, she acknowledges knowing about the "delinquent charges" when she says she was contacted about legal action in February 2022. So, in these circumstances I find 305's failure to provide the invoice is not fatal to its claim.
22. I turn now to the amount, if any, 305 is entitled to recover from Ms. Langstroth for the restoration work.
23. Ms. Langstroth says that on December 12, 2019, 2 of 305's representatives arrived at the premises to perform the restoration work. She says they installed dehumidifiers to deal with the moisture problem, and that the dehumidifiers remained in place for 4 days, after which 305 removed them at the Langstroths' request. Since 305 does not dispute this description of the restoration work, I find this is the extent of the work performed.
24. In the absence of the invoice or any evidence about the value of the work performed, on a judgment basis I find \$200 is reasonable. I say this because \$200 is a reasonable estimate of the cost for 2 of 305's representatives to install and remove dehumidifiers at the premises to deal with the moisture problem.
25. In submissions, 305 expressly waives its claim to contractual interest, so I make no order for pre-judgment interest.
26. 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. Since 305 was partially successful, I find it is entitled to reimbursement of

½ of the \$125 it paid in CRT fees, which is \$62.50. 305 did not claim any dispute-related expenses, so I award none.

ORDERS

27. I dismiss 305's claims against Mr. Langstroth and Sunset.
28. Within 30 days of the date of this order, I order Ms. Langstroth to pay 305 a total of \$262.50, broken down as follows:
 - a. \$200 as payment for restoration work, and
 - b. \$62.50 in CRT fees.
29. 305 is entitled to post-judgment interest, as applicable.
30. 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.

Megan Stewart, Tribunal Member