



Civil Resolution Tribunal

Date Issued: November 24, 2022

File: SC-2022-003333

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Byrne v. Kwon*, 2022 BCCRT 1268

BETWEEN:

MICHAEL BYRNE

APPLICANT

AND:

OHCHAN KWON

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. The applicant, Michael Byrne, says the respondent, Ohchan Kwon, agreed to pay him a 10% incentive for two kitchen cabinetry jobs that he arranged for the respondent. The applicant says the respondent has not paid him, despite promising to do so. The applicant claims \$2,621.75 for his unpaid invoice.

2. The respondent disputes the applicant's claims and says he did not have an agreement with the applicant.
3. The parties are each self-represented.

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). 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. 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.
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 issues in this dispute are:
 - a. Did the applicant have an agreement with the respondent?
 - b. If so, to what extent must the respondent pay the applicant the claimed \$2,621.75 for the applicant's unpaid invoice?

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicant must prove his claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.

Did the applicant have an agreement with the respondent?

10. The applicant says he is a general contractor who arranged for the respondent to build and install kitchen cabinets for two kitchen projects. He says the parties agreed that the respondent would give him 10% based on the respondent's invoices for the cabinetry work. The applicant says he paid the respondent for the kitchen cabinetry work, but the respondent has not paid him his 10%, as agreed.
11. The respondent disputes this and says there was never any agreement.
12. Based on this alleged agreement, the applicant seeks payment of a May 2, 2022 invoice that totals \$2,621.75 for "kitchen cabinet design consultation" on what I infer

are the two kitchen projects. However, the invoice is addressed to Kwon Cabinets Ltd. and does not refer to the respondent personally. Kwon Cabinets Ltd. is not a party to this dispute. In addition, the invoice was issued by RPH Painting & Renovation Contracting Services (RPH). The applicant did not explain his relationship to RPH.

13. The applicant also provided copies of four cheques that he says prove that he paid the respondent for the cabinetry work on the two kitchens. However, all four cheques were made out to Kwon Cabinets Ltd, not the respondent. In addition, the cheques were issued by another entity, MFB Reliable Painter & Handyman Services (MFB). The applicant did not explain his relationship to MFB, or explain the relationship between MFB and RPH.
14. The respondent also provided quotes for two cabinetry jobs. Both quotes were issued by Kwon Cabinets Ltd. to “Michael” who I infer is the applicant.
15. The limited evidence suggests that if there was any agreement, it was likely between entities that are not parties to this dispute. However, I make no findings on any agreement between entities that are not parties to this dispute. Based on the limited submissions and evidence, I find it unlikely there was any agreement between the applicant and the respondent personally.
16. As noted, the applicant only named Ohchan Kwon as a respondent in this dispute. I infer the respondent is likely a principal or director of Kwon Cabinets Ltd.. However, at law, directors, officers and employees of corporations are not personally liable unless they have committed a wrongful act independent from that of the corporation. See *Merit Consultants International Ltd. v. Chandler*, 2014 BCCA 121. I find the applicant did not allege that the respondent committed a wrongful act independent of Kwon Cabinets Ltd..
17. As noted, the applicant has the burden of proving his claims. Here, I find he has not proved that he had any agreement with the respondent personally. Therefore, I dismiss the applicant’s claims in this dispute.

CRT fees and dispute-related expenses

18. 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. As the applicant was unsuccessful, I dismiss his fee claim. The respondent did not pay any CRT fees and neither the applicant nor the respondent claimed any dispute-related expenses, so I award none.

ORDER

19. I dismiss the applicant's claims and this dispute.

Leah Volkers, Tribunal Member