



# Civil Resolution Tribunal

Date Issued: November 25, 2022

File: SC-2022-002374

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wu v. Wang*, 2022 BCCRT 1271

BETWEEN:

YUHONG WU

**APPLICANT**

AND:

HSUANHUI WANG

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Micah Carmody

## INTRODUCTION

1. This dispute is about payment for painting services.
2. The applicant, Yuhong Wu, and the respondent, Hsuanhui Wang, were friends. Mr. Wu offered to paint the walls in Ms. Wang's condominium for \$1,500. Ms. Wang later

asked him to paint the baseboards, doors, and trim as well. The parties did not discuss the price for this extra work. Ms. Wang paid Mr. Wu \$1,500. Mr. Wu now claims \$4,485 for the extra work, based on what he says are market rates for interior painting.

3. Ms. Wang says Mr. Wu viewed her condo and was aware of all the work required but never mentioned a price increase. She also says Mr. Wu's work was poor and incomplete. So, Ms. Wang says she should not have to pay anything more.
4. Each party is self-represented. As I explain below, I dismiss Mr. Wu's claims.

## **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. 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.
7. 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.

8. 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.

## **ISSUE**

9. The issue in this dispute is whether Mr. Wu is entitled to payment for the claimed extra work, and if so, what amount?

## **EVIDENCE AND ANALYSIS**

10. As the applicant in this civil proceeding, Mr. Wu must prove his claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
11. Most of the facts are undisputed. Mr. Wu is not in the painting business. He and Ms. Wang became friends in late 2021, a few months before Ms. Wang bought her 2-bedroom condo.
12. Mr. Wu submitted copies of text messages the parties exchanged in Chinese, with English translations. Ms. Wang did not dispute the accuracy of the translations, so I accept them. In March 2022 texts, Ms. Wang mentioned to Mr. Wu that a painter estimated \$3,500 to paint "only walls" in her condo with "paint included." She asked if this was a good price, and Mr. Wu said it was not. Mr. Wu first told Ms. Wang to bargain, and then offered to do the same job for \$1,500 if Ms. Wang provided the paint and tools. He said he had painting experience and could finish in 5 days. Eventually, Ms. Wang agreed. At that point, Mr. Wu had not seen the condo but was aware it had 2 bedrooms.
13. On March 16, 2022, Mr. Wu visited Ms. Wang's condo. The parties discussed that not only the walls needed painting but also the baseboards, trim, 7 doors, and the kitchen ceiling. However, the second bedroom and both wardrobes did not need

painting. Despite this change in the work's scope, the parties did not discuss a change in price on March 16 or at any time until Mr. Wu finished painting.

14. Mr. Wu began painting on March 19 and finished on April 2. Ms. Wang paid for all the paint and supplies as agreed. Mr. Wu worked about 8 hours per day for 13 days. Some of the delay was because Ms. Wang partially moved into the condo before Mr. Wu finished, so he had to paint around furniture, boxes, Ms. Wang's mother, and a cat. The evidence indicates that the delay strained the parties' friendship.
15. On April 2, Mr. Wu finished his painting work. He says on that day, Ms. Wang's mother was disrespectful to him. He called Ms. Wang and told her that he was ending their friendship and wanted fair market value for his painting work. Mr. Wu does not deny that he threatened to destroy his work by splashing paint on the walls if he was not paid fairly. Ms. Wang attended the condo unit with other friends and the parties discussed the situation. Mr. Wu said the painting work was worth at least \$4,000 but he would take \$2,500. Ms. Wang paid Mr. Wu \$1,500, and police escorted Mr. Wu from Ms. Wang's condo.
16. Ms. Wang recorded that April 2 in-person conversation, which was in Chinese, and provided a certified English transcript of certain portions it. She did not provide a complete transcript or the recording itself. It is not necessary to reproduce any of that transcript here because it shows the parties largely argued the same positions they argue in their submissions.
17. Mr. Wu argues that the \$1,500 agreement was for the walls only, and he should be paid for all the painting work at a fair rate. He does not break down how much time he spent painting walls as opposed to other structures. Ms. Wang says because Mr. Wu never mentioned that the additional work would cost more, she assumed the price remained \$1,500.
18. I turn to the law. The law requires a contractor seeking compensation for "extra" work to prove each of 4 elements:

- a. Did the work fall outside the scope of work originally contemplated by the contract?
  - b. If so, did the owner explicitly or implicitly authorize the work?
  - c. Was the owner informed or necessarily aware that the work would increase the cost?
  - d. If there was a term requiring changes to be in writing, did the owner waive it or acquiesce?
19. If the contractor can establish each element for each extra claimed, they are entitled to a “reasonable amount” for the extra work (see *Kei-Ron Holdings Ltd. v. Coquihalla Motor Inn Ltd.*, 1996 CanLII 3443 (BC SC) at paragraph 41).
20. I find the fourth element does not apply here as there was no written contract and no term requiring changes to be in writing. I will consider the other 3 elements in order.
21. I am satisfied that the work of painting baseboards, trim, doors and the kitchen ceiling fell outside the scope of work originally contemplated by the parties’ \$1,500 agreement. This is clear from the parties’ text messages that refer to painting the walls only. Next, I am satisfied that Ms. Wang authorized the extra work. She showed Mr. Wu the condo and they discussed what did and did not need to be painted.
22. The third element is central to this dispute. It is undisputed that Ms. Wang was not informed, until the work was complete, that the extra work would increase the cost. So, this dispute turns on whether Ms. Wang was “necessarily aware” that the extra work would increase the cost. There is limited case law on the circumstances in which an owner’s awareness of an increased cost can be inferred from the context.
23. Here, I find it relevant that the parties’ relationship was one of friendship and not a strictly business relationship between a typical homeowner and contractor. Ms. Wang had no experience hiring painters and reached out to Mr. Wu for his advice on whether the initial quote she received was reasonable. When he made a significantly lower offer, she accepted it. I accept that Ms. Wang relied on Mr. Wu to tell her if the

price had increased after viewing the condo. In the circumstances of their friendship and her inexperience hiring painters, I find that reliance was reasonable. There is no evidence she had any idea how much additional time the extra work would take, and Mr. Wu did not explain this to her. In all, I find Ms. Wang was not aware that the extra work would increase the cost.

24. Even if I am wrong to base my decision in part on the parties' relationship and relative experience, the law points to the same conclusion in strictly business relationships. Specifically, contractors are expected to promptly advise homeowners of cost overruns (see *Anway Construction Ltd. v Hunte*, 2020 BCSC 601, paragraph 189). So, when Mr. Wu's painting work went on longer than anticipated, I find he had an obligation to inform Ms. Wang that his price was increasing or that a new agreement had to be made.
25. For these reasons, I find Mr. Wu has not shown he is entitled to any payment for the extra work. I dismiss his claim.
26. 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 therefore dismiss Mr. Wu's claim for CRT fees. Ms. Wang did not pay CRT fees but claimed \$1,275.75 in dispute-related expenses for the certified partial transcript of the recording she made. Ms. Wang did not provide a receipt or invoice for the transcript, so I find she has not proved the expense and I do not allow it.

## **ORDER**

27. I dismiss Mr. Wu's claims and this dispute.

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Micah Carmody, Tribunal Member

