



Civil Resolution Tribunal

Date Issued: November 29, 2022

File: SC-2022-001795

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Amirnikou v. Jahanshahi*, 2022 BCCRT 1285

BETWEEN:

MOHAMMAD AMIRINIKOU and 1219328 B.C. LTD. (Doing Business
As EMF ELECTRIC)

APPLICANTS

AND:

SOLMAZ JAHANSHAH

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The respondent, Solmaz Jahanshahi, hired the applicant, 1219328 B.C. Ltd. (Doing Business As EMF Electric) (EMF), to do electrical work in her home's unfinished basement. The other applicant, Mohammad Amirnikou, is EMF's owner.

2. The applicants say Ms. Jahanshahi paid for the applicants' labour but not for materials as agreed. They claim \$738.48 for materials. Ms. Jahanshahi says the applicants' work was incomplete, so she is not required to pay anything more.
3. Mr. Amirinikou represents himself and EMF. Ms. Jahanshahi represents herself.

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. 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 issues in this dispute are:
 - a. Who were the contracting parties?
 - b. What were the key contractual terms?
 - c. Who breached the contract, and what remedy is appropriate?

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 considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
10. It is undisputed that on February 11, 2022, Mr. Amirinikou went to Ms. Jahanshahi's home to give an estimate on electrical work in Ms. Jahanshahi's unfinished basement. The job involved cleaning up electrical cables, relocating electrical boxes and adding a few components, such as ceiling pot lights. Mr. Amirinikou spoke with Ms. Jahanshahi's husband that day. The only invoice in evidence was made out to "mr and mrs jahanshahi." Ms. Jahanshahi does not dispute that she was a party to the contract and liable for any proven debt arising out of it. I find Ms. Jahanshahi's husband was either a party to the contract or her agent, but it makes no difference here as the claim is just against Ms. Jahanshahi.
11. EMF issued the invoice. As a corporation, EMF is a distinct legal entity, separate from its owners, officers and employees. Mr. Amirinikou does not specifically argue that he contracted in his personal capacity as opposed to as EMF's agent. Given the evidence before me, I find no basis for Mr. Amirinikou's claim in his personal capacity, and I dismiss it. When I refer to Mr. Amirinikou below, I refer to him in his capacity as owner and representative of EMF.
12. From the parties' texts, I find the work happened on February 26, 2022. Mr. Amirinikou says on that day Ms. Jahanshahi was present and she made some

changes to the work's scope, including adding electrical outlets. Mr. Amirinikou says it made no difference to him because he was charging by the hour, plus the cost of materials. Mr. Amirinikou says he spent 11 hours working that day and completed "most of the work." He says Ms. Jahanshahi paid him in full for his labour, which was 11 hours at \$65 per hour. Ms. Jahanshahi does not confirm exactly what she paid, but in a text message her husband said they paid \$750. On that basis, I find Ms. Jahanshahi paid \$750.75, which is \$715 plus GST as indicated on the invoice for labour.

13. At the end of the day on February 26, 2022, Mr. Amirinikou sent Ms. Jahanshahi's husband a list of parts and prices by text. He asked for payment of the total cost of the parts, which was \$872.48. Ms. Jahanshahi and her husband refused to pay. Instead, on March 1, Ms. Jahanshahi's husband said they would pay \$650 for materials, but only if Mr. Amirinikou returned and completed the work without further labour charges. Mr. Amirinikou declined.
14. So, did have the right to withhold payment for materials unless Mr. Amirinikou completed the work without further charge? I find it depends on the contract's terms.
15. Mr. Amirinikou says he advised Ms. Jahanshahi's husband that the job would take 8 hours and his rate was \$65 per hour. He says they agreed that EMF would charge for material at retail prices, using Home Depot as their reference, except for pot lights which Ms. Jahanshahi's husband agreed to buy from EMF for \$25 each. In contrast, Ms. Jahanshahi says Mr. Amirinikou provided a quote of \$900-\$1,200, including material and labour.
16. Although the parties do not use these exact words, I find Mr. Amirinikou argues that the contract was for "time and materials" while Ms. Jahanshahi argues that Mr. Amirinikou's estimate of \$900 to \$1,200 was binding, or alternatively that there was an implied contractual term that the work would be done for a reasonable price. So, according to Ms. Jahanshahi, when the cost exceeded \$1,600 before the work was complete, EMF breached the contract.

17. On the whole, I find Mr. Amirinikou's position more consistent with the parties' subsequent conduct and text messages. First, on March 1, Mr. Amirinikou asked Ms. Jahanshahi's husband if he had been able to go over the materials list and costs he submitted on February 26. Ms. Jahanshahi's husband said he would let Mr. Amirinikou know that night. Had Ms. Jahanshahi and her husband not agreed to pay separately for materials, I would expect her husband to say so when presented with the material costs. Second, Ms. Jahanshahi paid Mr. Amirinikou his hourly rate for 11 hours of work, indicating an agreement to pay by the hour rather than a flat rate. So, I accept Mr. Amirinikou's evidence that the parties agreed to \$65 per hour for labour, plus the cost of materials.
18. That said, Mr. Amirinikou does not specifically deny providing an estimate of \$900-\$1,200. I find that he did give the initial estimate. However, Ms. Jahanshahi does not deny making changes on February 26 that increased both the labour and material costs. Mr. Amirinikou's unchallenged breakdown shows the extra work involved \$288 in additional material costs. I accept that it took additional time as well. Given that the scope of work changed, I find Ms. Jahanshahi cannot use Mr. Amirinikou's initial estimate to argue that the time he took to do the work was unreasonable.
19. Although Mr. Amirinikou did not complete the work in the 11 hours, I find Ms. Jahanshahi has not shown that the total cost was unreasonable for the work that was completed. There is no evidence, for example, from another contractor providing an estimate of the time and cost to do the same work.
20. With that, I find Mr. Amirinikou is entitled under the parties' contract to the payment he received for 11 hours of labour plus the proven material costs. I find the parties agreed that material costs would be based on Home Depot's retail prices, except the 6 pot lights which were \$25 each.
21. Mr. Amirinikou made some deductions from his initial calculation of \$872.48. He sent Ms. Jahanshahi an invoice on May 8, 2022, showing parts totaling \$659 plus taxes. I note this is close to the \$650 that Ms. Jahanshahi was initially prepared to pay for parts. With taxes, the parts total \$738.08. The parts are supported by Home Depot

website printouts and not disputed by Ms. Jahanshahi. I find the applicants' claim for \$738.48 was off by 40 cents due to a typo or math error. So, I find EMF is entitled to \$738.08, subject to any allowable set-off.

22. Ms. Jahanshahi alleges that Mr. Amirinikou did not install certain parts, failed to connect a baseboard heater, and did not connect breakers. Ms. Jahanshahi says she had to hire another contractor to complete the work for \$300, which is supported by an invoice. I find Ms. Jahanshahi argues that the \$300 should be set off from her debt to EMF. However, I find the \$300 relates to incomplete work that Ms. Jahanshahi prevented EMF from completing. Had EMF been allowed to complete the work, Ms. Jahanshahi would have been required to pay Mr. Amirinikou for his labour and materials. In the circumstances, I find Ms. Jahanshahi is not entitled to any set off.
23. EMF claims contractual interest of 2% daily. A right to charge interest cannot be based simply on a unilateral assertion in an invoice (see *N.B.C. Mechanical Inc. v. A.H. Lundberg Equipment Ltd.*, 1999 BCCA 775). I find there was no agreement about interest, so I find EMF is entitled only to interest under the *Court Order Interest Act* (COIA), which applies to CRT disputes. Specifically, I find EMF is entitled to COIA interest on the \$738.08 from the May 8, 2022, invoice date, to the date of this decision. This equals \$5.72.
24. 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. EMF was successful, so I find it is entitled to reimbursement of \$125 in CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

25. Within 14 days of the date of this order, I order Ms. Jahanshahi to pay EMF a total of \$868.80, broken down as follows:
- a. \$738.08 in debt,
 - b. \$5.72 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125.00 in CRT fees.
26. EMF is entitled to post-judgment interest, as applicable.
27. I dismiss Mr. Amirinikou's claims.
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.

Micah Carmody, Tribunal Member