



Civil Resolution Tribunal

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File: SC-2022-002630

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Stryco Investments Ltd. v. Revamp Furniture and Garage*,
2023 BCCRT 75

B E T W E E N :

STRYCO INVESTMENTS LTD.

APPLICANT

A N D :

REVAMP FURNITURE AND GARAGE and ROBERT GRAY

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about payments for antique furniture.
2. The applicant, Stryco Investments Ltd., says the respondents purchased antique furniture from the applicant totaling \$12,078.03 on consignment, in order to resell it.

The applicant says the respondents have paid \$7,646.38, but have not paid the outstanding balance owing for the furniture. The applicant claims \$4,431.65 for the unpaid balance. The applicant is represented by one of its directors, Harry Stryer.

3. The respondents do not dispute that they purchased \$12,078.03 in furniture from the applicant on consignment, and have only paid \$7,646.38. However, they say the applicant's bailiff confirmed their last payment was "payment in full", so they owe nothing further.
4. The respondent Revamp Furniture and Garage (Revamp) is a partnership, and is represented by one of its partners, Deen Hannem. The respondent Robert Gray is Revamp's other partner, and is self-represented. Robert Gray provided submissions for both respondents in this dispute.

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. 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.

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.

Evidence

9. In submissions, the respondents say they were unable to view the bailiff's statement submitted in evidence by the applicant. I asked CRT staff to provide the bailiff's statement to the respondents. The respondents reviewed it and provided submissions on it. The applicant was also provided an opportunity to respond.
10. The applicant also emailed CRT staff further evidence with its response, which I understand relates to payment demands. If I admitted this further late evidence, I would have to pause the process to again give the parties an opportunity to make submissions about the new evidence, delaying a final decision. The CRT's mandate includes proportionality and the speedy and efficient resolution of disputes. Also, given my conclusions, I determined that it was unlikely that this further evidence would change my decision. So, I declined to view it and have not admitted it into evidence. I also have not viewed the respondents' reply email sent to CRT staff after the applicant's response.

ISSUE

11. The issue in this dispute is to what extent, if any, the applicant is entitled to payment of the claimed \$4,431.65 for antique furniture.

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, the applicant 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 what I find relevant to provide context for my decision. The respondents did not provide any documentary evidence in this dispute, despite being provided the opportunity to do so.
13. The respondent, Revamp, is a partnership with two partners, Deen Hannem and Robert Gray. Sections 7 and 11 of the *Partnership Act* say that each partner is liable for a partnership's debts and obligations. Section 12 says that a partnership is liable for the acts or omissions of any of its partners acting in the ordinary course of business. So, I find the named respondents Revamp and Robert Gray are jointly and severally liable for the applicant's claim, to the extent it is proven as discussed below. Deen Hannem is not personally named as a party in this dispute.
14. The applicant submitted two "Antique Market" invoices dated July 16, 2020 addressed to Revamp. Based on the parties' submissions, I infer Antique Market is the business name that the applicant operates under.
15. Both invoices are identified by the same number. The original invoice totals \$12,078.03, and the second invoice, "invoice with payments", totals \$7,646.39. The invoice with payments includes a listing of several payments made by the respondents between October and December 2020, totaling \$4,431.65. Both invoices indicate the sales order was a consignment order, and Revamp promised to pay prior to December 31, 2020. The respondents do not dispute these invoices.
16. It is undisputed that the respondents purchased \$12,078.03 in furniture from the applicant on consignment, paid the applicant \$4431.65 directly, and then paid a

further \$3,214.74 when the applicant hired a bailiff to collect the outstanding amounts owing from the respondents. In total, the respondents have undisputedly paid the applicant \$7,646.39. Based on the \$12,078.03 invoice, the applicant says \$4,431.65 remains outstanding. However, I find the amount outstanding totals \$4,431.64, one cent less than the amount claimed.

17. As noted, the respondents dispute owing anything further because they say the applicant's bailiff verbally confirmed the respondents' last \$3,214.74 payment was "payment in full".
18. The applicant provided an unsigned statement from the bailiff. In the statement, the bailiff said they calculated the outstanding amount owing as \$3,214.74 based on the \$7,646.39 invoice minus the \$4,431.65 in payments. The bailiff said they collected this amount, and then received a revised invoice showing a total of \$12,078.03. They said based on the \$12,078.03 invoice, there was an outstanding balance of \$4,431.64 owing. The bailiff said it contacted the respondents again and advised that there had been a calculation mistake made, and wanted to collect the balance owing. The bailiff said the respondents did not deny the outstanding amount owing at that time. I accept the bailiff's statement because I find it is consistent with two sales orders in evidence. Further, the respondents acknowledge the bailiff sought payment from them a second time on the basis that there was additional money owing. In their most recent submissions, the respondents argue that the bailiff did not justify the additional amount owing after demanding "payment in full" of \$3,214.74.
19. I find the respondents argue that when the applicant's bailiff accepted their \$3,214.74 payment as "full payment", the applicant agreed to release them from any further claims for payment for the furniture. In law this is known as the doctrine of "accord and satisfaction". Under that doctrine, the alleged debtors, the respondents, must show that the alleged creditor, the applicant, expressly communicated an intention to accept partial payment as a final settlement. Silence is not generally considered acceptance. See *IBI Group v. Lefevre*, 2004 BCSC 298.

20. I find that when the bailiff sought payment of \$3,214.74 from the respondents, it was only based on the \$7,646.39 invoice. As noted, the respondents do not dispute that they purchased \$12,078.03 worth of furniture. Given the above, even if the bailiff confirmed that the \$3,214.74 payment was full payment of the \$7,646.39 invoice the bailiff was collecting on at that time, I find it does not show that the applicant expressly communicated it would accept a partial payment of \$3,214.74 in full satisfaction of the undisputed \$12,078.03 debt. Therefore, I find the respondents cannot rely on the defence of accord and satisfaction.
21. The respondents do not otherwise dispute the amount owing. So, I find the applicant is entitled to payment of the outstanding \$4,431.64 owing for the furniture.

Interest, CRT fees and expenses

22. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the \$4,431.64 debt from December 31, 2020, the date payment was due, to the date of this decision. This equals \$84.13.
23. 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 successful in its claim, I find it is entitled to reimbursement of \$175 for its paid CRT fees. Neither party claimed dispute-related expenses, so I award none.

ORDERS

24. Within 30 days of the date of this order, I order the respondents, jointly and severally, to pay the applicant a total of \$4,690.77, broken down as follows:
- a. \$4,431.64 in debt,
 - b. \$84.13 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175 in CRT fees.

25. The applicant is entitled to post-judgment interest, as applicable.
26. 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.

Leah Volkers, Tribunal Member