



Civil Resolution Tribunal

Date Issued: February 10, 2023

File: SC-2022-004068

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Bellkind Equipment Ltd v. Purdy*, 2023 BCCRT 122

B E T W E E N :

BELLKIND EQUIPMENT LTD

APPLICANT

A N D :

JOHN PURDY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This is a dispute about payment for tree-pruning permit services. The applicant Bellkind Equipment Ltd. (Bellkind) says it prepared an arborist report and submitted paperwork for a tree pruning permit for the respondent John Purdy. Bellkind claims \$1,260 for this work.

2. Mr. Purdy says he did not ask Bellkind to prepare the report and application and so should not have to pay for it.
3. Bellkind is represented by its owner, Alex Goldkind. Mr. Purdy represents himself.

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.
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.
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.

ISSUE

8. The issue in this dispute is whether Mr. Purdy owes Bellkind \$1,260 for an arborist report and permit application.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, Bellkind must prove its claim on a balance of probabilities. 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 Mr. Purdy did not provide documentary evidence in support of his position, despite having the opportunity to do so.
10. I find Bellkind has proven its claim and is entitled to \$1,260. My reasons are below.
11. The parties agree that in early October, 2021, Mr. Purdy asked Hoff Tree Services Ltd. (Hoff) to prune some trees on his property. Hoff owns and operates Bellkind, which provides permit services, including arborist reports.
12. The parties further agree as follows. After looking at the trees, Bellkind told Mr. Purdy that 2 of the trees were big enough to require pruning permits from the District of West Vancouver. Bellkind also told Mr. Purdy the same 2 trees may be located on public property. If the trees were on public property, Bellkind said it would not be able to prune them, as it was not a District-approved contractor.
13. The parties disagree about what happened next. Bellkind says it told Mr. Purdy it could apply for the necessary permit, which would require an arborist report. Bellkind advised Mr. Purdy that with that permit, he could hire a different company to prune the trees. Bellkind says Mr. Purdy agreed.
14. Mr. Purdy says he never asked Bellkind to apply for a permit, and so did not agree to any report. There is no written contract between the parties.
15. Did the parties have a contract for permit services? I start with the basic principles of contract formation. The parties must mutually intend to create a binding contract. Whether there is an enforceable contract involves an objective test based on what a reasonable person in the parties' situation would have believed and understood, rather than on the parties' subjective beliefs. The contract's essential terms must be sufficiently clear, and the party seeking to rely on the contract must show there was

a matching offer and acceptance of those terms. See *Ratanshi v. Brar Natural Flour Milling (B.C.) Inc.*, 2021 BCSC 2216 at paragraphs 66 to 69.

16. Bellkind provided an email from RT, the arborist who wrote the report. RT says on October 4, 2021, he met Mr. Purdy and confirmed with him “which were the trees in question.” Mr. Purdy agrees he met with RT, but says he did not have “clarity” about why RT was there. However, Mr. Purdy does not say why he did not ask RT to explain or clarify what he was doing. RT completed the report on October 8, 2021.
17. Bellkind provided a copy of a 1-page permit application signed by Mr. Purdy and dated October 9, 2021. The application includes a checked box indicating that an arborist report must be included. Mr. Purdy agrees that he signed the application, but says the document was not explained to him in detail. He does not say why he did not ask for an explanation.
18. When Mr. Purdy met with RT and later signed the permit application, I find a reasonable person would believe that since Mr. Purdy did not object, he agreed to both the arborist report and the permit application. I find the parties had a contract.
19. Emails show Bellkind submitted the permit application and arborist report to the District on October 12, 2021.
20. On October 12, 2021, Bellkind sent Mr. Purdy an invoice for \$1,260: \$950 for the arborist report, \$250 for submitting the application, and \$60 in GST.
21. I find that as Mr. Purdy signed the application, it follows that he knew or should have known Bellkind would submit it to the District on his behalf. As the application shows that an arborist report was required, Mr. Purdy’s signature also confirms he knew, or should have known, the report was necessary.
22. While Mr. Purdy argues the application’s content was not explained to him, I find what matters it that he chose to sign the application without seeking any further advice. Mr. Purdy’s signature is evidence that he was aware of the work Bellkind performed on

his behalf. If he had not wanted the work done, he could have chosen not to sign the application.

23. Next, Mr. Purdy submits he was told by 2 tree service companies and the municipality that an arborist report was not needed, but he did not provide any evidence to support his position. On the other hand, Bellkind provided an email from the District that confirmed an arborist report was required to issue the permit. I find that an arborist report was likely required for the District to ultimately issue the permit.
24. Mr. Purdy also says he hired a third party, STS, to obtain the permit and prune the trees. A permit in evidence was issued to STS on October 28, 2021. However, by that time Bellkind had already completed and billed for the permit work it had performed, so I find Mr. Purdy's decision to later hire someone else is not relevant.
25. Finally, Mr. Purdy says Bellkind's paperwork achieved nothing. However, the District email and signed application evidence support Bellkind's position that an arborist's report was necessary for a permit to be issued. Bellkind also undisputedly prepared and submitted the permit application, as it said it would. There is no evidence that the application lacked information or was completed incorrectly. I find that Bellkind carried out its obligations under the parties' agreement appropriately.
26. Generally, for a contract to be binding, the parties must agree on key terms. This usually includes price. However, a binding contract may still exist even if the parties have not agreed on a price. In such cases, the principle of contractual *quantum meruit* applies. This means Bellkind is entitled to be paid a reasonable amount for the goods or services it provided (see *Infinity Steel Inc. v. B & C Steel Erectors Inc.*, 2011 BCCA 215). As Mr. Purdy does not dispute the amount of the charges on the invoice, and none of the charges are obviously unreasonable, I accept that the invoice reflects what Bellkind should be paid for its services under contractual *quantum meruit*. I find Bellkind is entitled to be paid its invoice of \$1,260.

27. In submissions, Bellkind claims punitive damages, court costs, and payment for his time and energy as an expense. Mr. Purdy also claims compensation for the time he took to respond to this dispute as an expense.
28. Bellkind did not raise punitive damages in the dispute notice, and so I find it is not before me. However, even if raised, I would not order punitive damages. Punitive damages are to punish a “morally culpable” respondent and are usually granted only for malicious and outrageous acts: see *Honda Canada Inc. v. Keays*, 2008 SCC 39 at paragraphs 62 and 68 and *Chalmers v. AMO Canada Company*, 2010 BCCA 560 at paragraph 29. Punitive damages should be resorted to in only exceptional cases and with restraint: see *Whiten v. Pilot Insurance Co.*, 2002 SCC 18 at paragraph 69). Here, I find there is no evidence to support a punitive damages claim. I dismiss this claim.
29. The CRT does not have authority to award court costs, so I make no order in that respect. Except in extraordinary circumstances that do not apply here, the CRT generally does not reimburse people for time spent on the dispute. I decline to order reimbursement for time spent by the parties.
30. In submissions, Bellkind sought 10% pre-judgement interest. It did not claim this amount in the Dispute Notice, and it did not provide evidence the parties agreed on that amount. I find the issue of contractual interest is not before me, and even if it were, it has not been proven.
31. Where there is no agreement on interest, the *Court Order Interest Act* (COIA) applies to the CRT. Mr. Purdy submits that Bellkind waived entitlement to interest, but has not explained why the COIA should not apply. I find Bellkind is entitled to pre-judgement interest on \$1260 from October 12th, 2021, the date of its invoice, to the date of this decision. This equals \$21.17.
32. 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.

I find Bellkind was substantially successful, and so is entitled to reimbursement of \$125 in CRT fees. Bellkind claimed no other expenses.

ORDERS

33. Within 14 days of the date of this order, I order Mr. Purdy to pay Bellkind a total of \$1,406.17, broken down as follows:
 - a. \$1260 in debt for unpaid permit services,
 - b. \$21.17 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
34. Bellkind is entitled to post-judgment interest, as applicable.
35. I dismiss Bellkind's remaining claims.
36. 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.

Christopher C. Rivers, Tribunal Member