



Civil Resolution Tribunal

Date Issued: February 10, 2023

File: SC-2022-004203

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Paradise Shades and Blinds Ltd. v. Wilkins*, 2023 BCCRT 125

BETWEEN:

PARADISE SHADES AND BLINDS LTD.

APPLICANT

AND:

ALEXANDRA WILKINS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about a partially unpaid invoice for window blinds. The applicant, Paradise Shades and Blinds Ltd. (Paradise), says it properly provided and installed the blinds for the respondent, Alexandra Wilkins. Paradise claims \$578.53 for the balance owing.

2. Miss Wilkins says she only needed the blinds for a scheduled photoshoot of her townhouse. She says Paradise delivered and installed one of the blinds after photos were taken. She says she should not be responsible for the last blind, and the cost of it is equal to the balance owing.
3. Paradise is represented by its owner. Miss Wilkins represents herself.
4. For the reasons that follow, I find Paradise has proven its 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 either party breached the parties' contract and if so, what remedies are appropriate.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Paradise as the applicant must prove its claims on a balance of probabilities. This means more likely than not. 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.
11. It is undisputed that in December 2021 Miss Wilkins was in the process of staging and selling her townhouse. On December 10, 2021, the parties exchanged emails. Paradise sent a quote for supplying and installing 10 window blinds. The quote shows that Miss Wilkins paid a deposit of \$1,369.91, leaving a balance owing of \$456.34. Miss Wilkins asked for an installation date. Paradise replied that it had to wait for the blinds to arrive first from the third-party supplier. Paradise said this would typically take between 2 and 3 weeks. After that, Paradise would book an installation date within 2 days of arrival. Miss Wilkins accepted.
12. On December 13, 2021, Paradise sent Miss Wilkins a receipt for her deposit and a sheet containing further contract terms. Paradise asked her to reply back, "I accept". Miss Wilkins did so. I discuss the sheet and its impact below.
13. On December 17, 2021, Paradise emailed that it had forgotten to include a blind for the window by the front door in the original quote. It sent a new quote for 11 window blinds, with a balance owing of \$578.53. Paradise claims this amount in this dispute. Miss Wilkins emailed back and accepted the new addition and price.
14. On January 7, 2022, Miss Wilkins emailed for an update. Paradise replied that some of the blinds had arrived. Miss Wilkins advised Paradise that her photographer planned to take photos on January 14, 2022. The parties agreed Paradise would install the blinds on January 12, 2022.

15. On January 12, 2022, Paradise's installer visited Miss Wilkins but could not install the blinds. Upon opening the boxes, they found that a blind and most brackets were missing. Paradise returned on January 13, 2022 to install 10 of the 11 blinds. Paradise's January 14, 2022 text to Miss Wilkins shows that the shipping company had lost one of the boxes that included the missing blind and brackets. I accept this was the case as no evidence contradicts it.
16. It is undisputed that the photographer took photos on January 14, 2022 as planned, and Miss Wilkins sold her townhouse on January 23, 2022. Paradise installed the final blind on January 31, 2022. Paradise subsequently issued a February 23, 2022 invoice for the balance owing, though it mistakenly stated a balance owing of \$456.34. I find this was likely a mistake and Paradise meant Miss Wilkins owed \$578.53, which Paradise claims for here.

Did either party breach the parties' contract?

17. Miss Wilkins did not file a counterclaim, so I find she claims that Paradise breached the contract so that its claim cannot succeed. So, I considered whether Paradise breached the contract by supplying and installing the blinds late.
18. The evidence shows that Paradise never guaranteed a delivery date. In the emails of December 10 to 17, 2021, Paradise estimated how long delivery would "typically" take. Based on the parties' submissions, Miss Wilkins did not tell Paradise about the photography session date until after the parties had a binding contract. The emails first mention the photography session on January 7, 2022. So, I find Paradise provided a general timeline, but made no promises or guarantees that it would install the blinds before the photography session.
19. As noted earlier, Paradise also sent Miss Wilkins a contract terms sheet on December 13, 2021. I find the sheet further supports my conclusion for the following reasons.
20. In general, when contract parties agree to vary contract terms, the variation is enforceable as long as there is no duress, unconscionability or other public policy

reason not to enforce the contract. There is no longer a requirement for “fresh consideration” for a variation to be enforceable, although the existence of consideration is still a factor in determining enforceability of a variation of a contract. Consideration is something of value given by each party. See *Rosas v. Toca*, 2018 BCCA 191.

21. Here, I find the terms sheet bound the parties. This is because Miss Wilkins expressly said she accepted them in her December 13, 2021 email. Section 6 states that Paradise could only estimate the delivery date. So, I find that Paradise did not breach the contract by installing the blinds on January 31 instead of January 14, 2022.
22. I acknowledge that Miss Wilkins obtained limited use out of the last blind that Paradise installed on January 31, 2022. However, Paradise installed it without breaching the contract. There is also no indication that Miss Wilkins asked Paradise to refrain from installing the last blind. So, I find she should pay for it.
23. I also considered whether Paradise was, alternatively, negligent. This is because Miss Wilkins says Paradise should have told her earlier that it could not install the blinds before the January 14, 2022 photo shoot. She says she did not reschedule because, at that point, she would have to incur a \$300 fee.
24. Paradise admits that Miss Wilkins came to its store on January 11, 2022. She asked if the blinds would be installed the next day. Paradise says its owner saw a box with Miss Wilkins’ name on it, and assumed it had all the required components.
25. To succeed in a negligence claim, Miss Wilkins must prove Paradise owed her a duty of care, Paradise failed to meet the required standard of care, that failure caused Miss Wilkins damages, and the damages were reasonably foreseeable. See *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27 at paragraph 3.
26. Ultimately, I find it unnecessary to determine whether Paradise’s conduct breached the standard of care. This is because I find it unproven that Miss Wilkins sustained any loss or damage. Miss Wilkins did not incur the \$300 cancellation fee. There is no

indication that the missing blind affected Miss Wilkins' sale. There is no allegation that Paradise's work was deficient.

27. Given the above, I find there is no legal reason to reduce the amount owing to Paradise. I order Miss Wilkins to pay the amount owing under the December 17, 2021 quote. This equals \$578.53.
28. The *Court Order Interest Act* applies to the CRT. Paradise is entitled to pre-judgment interest on the debt of \$578.53 from February 23, 2022, the date of the invoice, to the date of this decision. This equals \$8.76.
29. 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 Paradise is entitled to reimbursement of \$125 in CRT fees. The parties did not claim any specific dispute-related expenses.

ORDERS

30. Within 30 days of the date of this order, I order Miss Wilkins to pay Paradise a total of \$712.29, broken down as follows:
 - a. \$578.53 in debt,
 - b. \$8.76 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
31. Paradise is entitled to post-judgment interest, as applicable.

32. 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.

David Jiang, Tribunal Member