



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *2 Burley Men Moving Ltd. v. Bermeo*, 2023 BCCRT 126

B E T W E E N :

2 BURLEY MEN MOVING LTD.

APPLICANT

A N D :

LUCERO BERMEO

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about an unpaid invoice for moving fees. The applicant, 2 Burley Men Moving Ltd. (Burley), says the respondent, Lucero Bermeo, hired it to move belongings from Victoria to Edmonton. Burley says Ms. Bermeo originally paid the invoice by credit card but later reversed the charge. Burley claims \$1,618.25.

2. Ms. Bermeo denies liability. She says Burley delivered her goods unexpectedly early, exceeded its quote without justification, and forced her to pay the invoice or incur storage fees. She says she was entitled to charge back Burley's fee.
3. An employee or principal represents Burley. Ms. Bermeo represents herself.
4. For the reasons that follow, I find Burley has partially 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 Burley appropriately charged Ms. Bermeo and what remedies, if any, are appropriate.

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Burley 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. Ms. Bermeo asked Burley to move her belongings from Vancouver to Edmonton. She summarized Burley's verbal offer in a November 12, 2021 email to Burley. It said that Burley would depart on December 6 or 7, 2021 and charge \$1,079, provided her goods weighed 1,000 pounds or less. Ms. Bermeo says that Burley said her goods likely weighed less than 1,000 pounds based on her description of them. I accept this as the contract below shows the parties proceeded on this assumption.
12. Ms. Bermeo hired Burley. Its movers and a driver, M, arrived on December 6, 2021. At that time, M presented Ms. Bermeo with a contract dated December 6, 2021. It had a preliminary price of \$950 for the goods, plus \$75 for a scale fee, plus 5% tax. By my calculation this equals \$1,076.25, which is slightly less than Burley original quote. I find the contract was binding as Ms. Bermeo signed it.
13. Ms. Bermeo says that Burley originally stated in the November 2021 call that it would only take about 5 days to move her belongings. However, M advised on December 6, 2021 that it would take longer than 5 days. M said her belongings would arrive on December 20, 2021 at the earliest. I accept Ms. Bermeo's account as nothing contradicts it.
14. M subsequently called on December 14, 2021 and advised that Burley had arrived in Edmonton earlier than expected, and wished to drop off Ms. Bermeo's belongings. M said that the price was now about \$1,600 because her belongings weighed over 1,000

pounds, and that if she did not accept the goods and pay Burley, she would be charged \$300 per day for storage. I find Ms. Bermeo's submission generally supported by other text messages between herself and M.

15. Burley subsequently delivered the goods on December 17, 2021. A credit card receipt shows Ms. Bermeo paid Burley \$1,618.25 the same day. The December 6, 2021 contract shows that at some point, Burley put in that amount as the final price. Ms. Bermeo's financial institution subsequently advised Burley in a March 9, 2022 letter that Ms. Bermeo had instructed it to charge back Burley's fee.

Did Burley overcharge Ms. Bermeo?

16. As noted above, Ms. Bermeo signed a written contract so I find it was binding. Under its terms, Burley said it would base its price on the shipment's actual weight as determined by a truck weigh scale. I note that the written contract does not specify a rate per pound or other formula to calculate the final price.
17. Based on the emails and the preliminary price written on the contract, I find that Burley agreed to move Ms. Bermeo's belongings for \$1,076.25, provided her items weighed 1,000 pounds or less. I also find the parties agreed Ms. Bermeo would pay a reasonable extra amount to move goods in excess of the weight limit.
18. Burley wrote that the goods weighed 1,543 pounds and wrote a final price of \$1,618.25 on the contract. I find this likely occurred after it went to a truck weigh station. Burley also provided an weigh scale slip to support its claim.
19. However, I find that overall, the slip does not support Burley's submissions. It lacks any indication, such as a full date, to show station staff created it in connection with Ms. Bermeo's shipment. The slip shows that Burley's truck had an entry weight of "5,968", presumably in kilograms. It shows another weight of 10,260 kilograms. There is nothing to show how a reasonable person could conclude from the slip that Ms. Bermeo's goods weighed 1,543 pounds. Burley did not elaborate on the slip in submissions.

20. Given this, I find it unproven Ms. Bermeo's goods weighed over 1,000 pounds. I find it proven that Burley otherwise fulfilled its contractual duties. The parties agree Burley delivered the goods. There is no evidence or submission that Burley damaged them. Ms. Bermeo says that Burley delivered her goods early. While I find this was the case, there is no evidence she sustained any loss from the premature delivery, such as lost wages or out of pocket expenses. So, I order Ms. Bermeo to pay \$1,076.25.
21. The *Court Order Interest Act* applies to the CRT. Burley is entitled to pre-judgment interest on the debt of \$1,076.25 from December 17, 2021, the date of her initial payment, to the date of this decision. This equals \$17.20.
22. 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 Burley proved more than half its claim, I find it is entitled to reimbursement of the \$125 it paid in CRT fees.
23. Burley did not claim for any specific dispute-related expenses. Ms. Bermeo says she should be compensated for out-of-pocket expenses and her "costs to deal with" the CRT. However, Ms. Bermeo did not support these claims with evidence or a request for any specific amount. So, I decline to award her any reimbursement.

ORDERS

24. Within 30 days of the date of this order, I order Ms. Bermeo to pay Burley a total of \$1,218.45, broken down as follows:
- a. \$1,076.25 in debt,
 - b. \$17.20 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
25. Burley 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.

David Jiang, Tribunal Member