



Civil Resolution Tribunal

Date Issued: May 15, 2023

File: SC-2022-004363

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *1-Call Cleaning Services Inc. v. Mann Capital Management Corporation*,
2023 BCCRT 398

B E T W E E N :

1-CALL CLEANING SERVICES INC.

APPLICANT

A N D :

MANN CAPITAL MANAGEMENT CORPORATION

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about cleaning services. The applicant, 1-Call Cleaning Services Inc. (1Call), says the respondent, Mann Capital Management Corporation (Mann), failed to pay for cleaning services provided in May 2021. 1Call collectively claims \$4,954.53 for cleaning services provided, a collection charge, and contractual interest.

2. Mann disputes 1Call's claims, and says it did not agree to the amount 1Call charged for cleaning services, contractual interest, or the collection charge. However, Mann agrees to pay 1Call \$3,000 for the cleaning services provided.
3. 1Call is represented by a person I infer is a principal or employee. Mann is represented by a person I infer is an employee.

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.

8. Mann provided evidence of the parties' settlement discussions during the CRT's facilitation process. CRT rule 1.11 says that parties cannot disclose settlement discussions unless all parties agree. There is no evidence that 1Call agreed to include any settlement discussions. I have therefore not considered that evidence in my decision.

ISSUE

9. The issue in this dispute is whether Mann is responsible to pay 1Call the claimed \$4,954.53 for cleaning services, a collection charge, and contractual interest.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant 1Call 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.

Cleaning services

11. 1Call undisputedly provided cleaning services at Mann's commercial property at the beginning of May 2021.
12. 1Call claims \$3,984.75 for the "original quoted invoice amount". 1Call did not submit a copy of its invoice despite clearly having issued invoice #21059002 for the cleaning services. The evidence also shows that 1 Call subsequently split its invoice into three separate invoices at Mann's request (invoices #21059002a, b, and c), which were also not submitted. Parties are told during the CRT's process to submit all relevant evidence, and the invoices at issue are clearly relevant. However, here I find the evidence shows Mann is responsible for the \$3,984.75 claimed for the cleaning services that were undisputedly provided. My reasons follow.
13. A May 6, 2021 unsigned quote from 1Call to Mann quoted \$3,795 to provide outdoor cleaning services at Mann's commercial property, plus GST. Including 5% GST, the

quoted amount totals \$3,984.75. This amount is consistent with the amount 1Call claims for its cleaning services in this dispute. The work listed in the quote consisted primarily of pressure washing various outdoor areas, including patios, railings, and planters, with some additional hand cleaning of vinyl siding, and windows and frames.

14. Mann does not dispute that the work was satisfactorily completed by 1Call. However, Mann says it did not agree to the amount quoted for the work, and did not issue a “contract or PO” on Mann letterhead by an approved signing officer.
15. A May 6, 2021 email from 1Call to RB attached the May 6, 2021 quote and asked RB to have their “office” sign the quote and return it to 1Call, to verify the work was approved. The quote is addressed to Mann. 1Call says RB is Mann’s “site-super” and Mann says RB is the “groundskeeper”. However, Mann does not dispute that RB was its employee. 1Call says RB then verbally confirmed that Mann had approved the quote over the phone. Although RB is undisputedly Mann’s employee, Mann says RB did not have authority to approve quotes, especially in the range of thousands of dollars. However, I find that 1Call does not allege that RB approved the quote on Mann’s behalf, rather, I find 1Call says that RB verbally confirmed Mann’s approval. So, the question is whether 1Call reasonably believed RB had authority to give verbal confirmation of Mann’s approval. This leads me to the law around actual and apparent authority, as discussed below.
16. There are 2 ways an employee can enter into a valid agreement on behalf of their employer. First, the employer can give the employee actual authority. Second, an employee can have apparent authority to enter into agreements on their employer’s behalf. See *Kassam v. Dream Wines Corporation*, 2022 BCSC 1069 at paragraph 24. The burden is on 1Call to prove that RB had actual or apparent authority to confirm the quote’s approval on Mann’s behalf. To establish apparent authority, 1Call must prove that Mann, not RB, represented through words or actions that RB had the authority confirm such agreement. 1Call must also prove that it reasonably believed RB had the authority to do so. See *R & B Plumbing & Heating Ltd. v. Gilmour*, 2018 BCSC 1295, at paragraphs 84 – 86.

17. As noted, while Mann disputes RB had authority to approve 1Call's quote for the cleaning services, it does not dispute that RB is its employee. There is no statement from RB confirming they were Mann's groundskeeper, rather than its site-super, or confirming that RB did not have authority to confirm Mann's approval of 1Call's quote on Mann's behalf. Mann did not explain why it did not provide, or was unable to obtain, direct evidence from RB on this issue, which I would have expected Mann to do in the circumstances. An adverse inference may be appropriate when a party fails to provide relevant evidence without a good explanation. Here, I find it is appropriate to draw an adverse inference against Mann for failing to provide such evidence from RB. This means that RB's evidence would likely have supported 1Call's claims. In other words, I find the RB's statement would likely confirm that RB was Mann's site-super, not groundskeeper, and had either actual or apparent authority to confirm approval of 1Call's quote on Mann's behalf for cleaning services. I also find this apparent authority consistent with RB's role as either Mann's groundskeeper or site-super. In other words, I find 1Call reasonably understood RB was the liaison for outdoor cleaning services while acknowledging that RB needed to seek approval for the work.
18. Further, in August 2021, 1Call resent its invoice to SS, another Mann employee, broken into three separate invoices. Mann did not dispute the charges at that time or advise 1Call that 1Call's cleaning services had not been authorized. It was not until September 2021, several months after the cleaning services were provided, that yet another Mann employee, MB, advised 1Call that there was "some miscommunication" between 1Call and Mann's employees "for the job to go ahead without approval". Although this email from Mann was marked "without prejudice", it was provided to the CRT by Mann, so I find Mann waived any claim it may have for privilege over the email. I find Mann's failure to take steps to advise 1Call its quote was unauthorized for several months after the work was completed is inconsistent with Mann's assertion that RB had no authority to confirm approval on Mann's behalf.
19. The evidence also shows that SS emailed Mann's commercial tenants and advised them that the outdoor patio cleaning was scheduled beginning on May 5 and May 6,

2021, consistent with 1Call's submissions about when RB asked it to attend Mann's property to assess and start the work. RB is copied on this email. Further, Mann does not dispute that RB contacted 1Call to provide pressure washing services for Mann's commercial property, or that RB and SS communicated directly with 1Call directly before and after 1Call commenced the work, and provided 1Call with access to various areas of Mann's commercial property in order for 1Call to complete the work. I find this evidence also supports a finding that RB had apparent authority to confirm approval of 1Call's quote for cleaning services on Mann's behalf at its commercial property. I accept Mann's submissions that SS no longer works for Mann, which 1Call does not dispute. So, I draw no adverse inference against Mann for failing to provide direct evidence from SS.

20. Based on all the above, I find RB had apparent authority to confirm approval of 1Call's quote for cleaning services on Mann's behalf. Even if Mann did not actually approve 1Call's quote, I find it was reasonable for 1Call to rely on RB's confirmation of such approval as Mann's site-super or groundskeeper. Therefore, I find 1Call's quote is a binding fixed price contract between the parties for the cleaning services.
21. Mann also argues that the quoted amount is above the industry standard for the work provided. However, as I have already found 1Call's fixed price quote for the cleaning services is binding on Mann, I find Mann cannot now argue that it was overcharged. Further, the only evidence Mann provided in support of this argument was an alternate quote from another company that is largely blacked out. Although the quoted amount is less than 1Call's quote, I find the alternate quote is unclear and incomplete. So, I cannot determine whether the alternate quote was for the same scope of services as 1Call's quote. I find Mann's allegation that 1Call overcharged for the work unproven.
22. Therefore, I find Mann is responsible to pay 1Call \$3,984.75 for the cleaning services.

Transportation collection charge

23. 1Call also claims \$200 for a transportation collection charge. 1 Call says this claimed amount is for the costs associated with attending at Mann's offices to pick up a cheque when the cheque was not ready. The evidence does not show that Mann ever agreed to pay 1Call's expenses to pick up any cheque. 1Call did not provide any other basis for this alleged cost. So, I dismiss this aspect of 1Call's claims.

Contractual interest

24. In its Dispute Notice, 1Call claimed 28% annual contractual interest. In submissions, 1 Call says Mann agreed pay 2% interest in its quote, which said "if payments are not made within n/30 from the invoice date, a two percent late charge may be applied and also applied for each thirty days outstanding" (reproduced as written).

25. Section 4 of the federal *Interest Act* limits the amount of annual interest chargeable to 5% when an interest rate in a contract is expressed as a rate or percentage for any period less than 1 year unless the equivalent yearly rate is also listed. Here, I find the contractual interest rate listed in the quote was a monthly rate, and since no equivalent yearly rate is listed, I find 1Call is limited to claiming 5% yearly interest under section 4 of the *Interest Act*. I find 1Call is entitled to 5% yearly interest, which I find is reasonably calculated on the \$3,984.75 from June 30, 2022 to the date of this decision. This totals \$99.78.

CRT fees and expenses

26. 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. 1Call was substantially successful in this dispute, so I find 1Call is entitled to reimbursement of \$175 in CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

27. Within 30 days of the date of this order, I order Mann to pay 1Call a total of \$4,259.53 broken down as follows:
- a. \$3,984.75 in debt,
 - b. \$99.78 in contractual interest, and
 - c. \$175 in CRT fees.
28. 1Call is entitled to post-judgment interest, as applicable.
29. 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