



Civil Resolution Tribunal

Date Issued: May 23, 2023

File: SC-2022-005483

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Webbe v. 50th Parallel Estate Limited Partnership*, 2023 BCCRT 425

B E T W E E N :

DANIEL WEBBE

APPLICANT

A N D :

50TH PARALLEL ESTATE LIMITED PARTNERSHIP

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Megan Stewart

INTRODUCTION

1. This dispute is about reimbursement for a damage deposit. The applicant, Daniel Webbe, held his June 30, 2022 wedding at a winery owned by the respondent, 50th Parallel Estate Limited Partnership (50th Parallel). During the dinner service, 2 confetti cannons were fired in violation of the parties' contract. 50th Parallel then withheld

\$3,150 of Mr. Webbe's \$3,500 damage deposit to cover damage it says was caused by firing the confetti cannons.

2. Mr. Webbe says 50th Parallel has not proven it sustained damage allowing it to keep the \$3,150. He acknowledges 50th Parallel may have incurred some extra cleaning costs due to the confetti, which he values at \$700. So, he claims \$2,450 of the \$3,150 50th Parallel withheld from his damage deposit.
3. 50th Parallel says it was entitled to keep most of Mr. Webbe's damage deposit (\$3,000 + \$150 tax) due to the expense it incurred in cleaning up the confetti. It also says it lost business revenue well above the amount it withheld, as the confetti rendered the hall unusable for some time after the wedding. 50th Parallel declined to file a counterclaim in this dispute, so I infer it seeks a set-off, as discussed below.
4. Mr. Webbe is self-represented. 50th Parallel is represented by a partner.

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.
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.
9. In the Dispute Notice, Mr. Webbe says the parties' contract included a "day of wedding coordinator" free of charge. However, he says his invoice included an auto gratuity for the service to which he did not agree. Since Mr. Webbe did not request a remedy for the auto gratuity or provide evidence of it, I make no findings about it.

ISSUE

10. The issue in this dispute is whether 50th Parallel must reimburse Mr. Webbe \$2,450 for part of the damage deposit Mr. Webbe paid.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant Mr. Webbe must prove his claims on a balance of probabilities (meaning "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.
12. It is undisputed that in February 2021, Mr. Webbe and his now-wife, who is not a party to this dispute, contracted with 50th Parallel to hold their wedding at 50th Parallel's winery. Neither party submitted the contract in evidence, so it is not before me. However, it is undisputed that it included a prohibition on confetti at the winery. During the dinner service, guests fired 2 confetti cannons in the hall.
13. Mr. Webbe says as soon as he saw the confetti, he spoke with a manager who told him extra cleaning might be required and that he would let him know. He also says when he returned to the hall the following day and offered to help with any clean-up, the manager led him to believe there were "no issues". Mr. Webbe provided

statements from 2 wedding guests which corroborate his submission that staff told him the confetti was not a significant problem. Though I find the wedding guests are unlikely to be entirely neutral, I find their statements were consistent about the most important details, and so were credible.

14. For its part, 50th Parallel says the confetti cannons spread debris all over the hall, and that professional cleaners had to be hired to get rid of it. It also says many of its service items were permanently damaged and had to be discarded, and that the confetti clogged its dishwashers, which required additional cleaning and servicing. Finally, 50th Parallel says the confetti rendered the hall unusable for days or weeks, resulting in lost business revenue and additional expense to reorganize events in other parts of the winery.
15. In other CRT decisions, tribunal members have found property owners seeking to keep a damage deposit must prove the other party caused property damage or a mess and must prove the related costs incurred (see, for example, *Tamuno v. Shannon*, 2021 BCCRT 1223 and *Moore v. Verigin*, 2022 BCCRT 1149). While these decisions are not binding on me, I find them persuasive and adopt their reasoning here. I find that to keep part of Mr. Webbe's damage deposit, 50th Parallel must prove the confetti caused it damage as well as prove the cost to remedy that damage. As noted above, Mr. Webbe does not dispute the confetti resulted in some extra cleaning costs, as his claimed amount is \$700 less than the amount 50th Parallel withheld from his damage deposit.
16. The difficulty for 50th Parallel is that it has not provided evidence of the level of damage caused, such as photographs, video, or witness statements. Also, the 3 invoices it did provide do not support the cost of remedying mess or damage from the confetti. Two of the invoices totaling \$908.68 were for "machine power scrub", "carpet shampooing and hard stain removal" and "power buffing and apply finisher". However, they did not say the services were in respect of confetti clean-up, and I find from those descriptions they were not obviously related to confetti clean-up. In addition, the invoices were dated July 18, 2022, which is well after the June 30, 2022

wedding. As 50th Parallel does not reasonably explain the delay in the cleaning services, I find the almost 3 weeks between the wedding and the provision of those services makes them too remote to be obviously attributable to the confetti. Also, 50th Parallel does not dispute Mr. Webbe's assertion that the hall does not have carpet and so any confetti-related cleaning charge cannot properly include carpet shampooing.

17. The third invoice, dated August 1, 2022 and totaling \$2,730, was for "janitorial services for 50th Parallel Winery in Lake Country". Again, the invoice was dated weeks after the wedding and gave no detail of the janitorial services provided, including whether they were related to cleaning up the confetti. So, I find it is not proof of the cost to remediate any damage caused by the confetti.
18. 50th Parallel says that only \$2,000 of these 3 invoices' total is for cleaning up the confetti, but as I have explained, I find none of the invoices support this assertion. 50th Parallel also says it used its own scissor lift to clean confetti from the hall's chandeliers. However, it appears to attribute \$500 of the withheld damage deposit amount to the cost of renting a scissor lift because using its lift to clean the chandeliers prevented it from being used for other winery work. None of this is supported by evidence. There is also no evidence of damage to service items or to 50th Parallel's dishwashers.
19. Finally, it is unclear why 50th Parallel added \$150 for tax to the \$3,000 it withheld from Mr. Webbe's damage deposit since the invoices it submitted included an amount for GST.
20. In short, I find 50th Parallel has not proven it was entitled to retain \$3,150 from Mr. Webbe's damage deposit. However, since Mr. Webbe only claimed \$2,450, I limit his award to this amount. Though 50th Parallel says it lost business revenue in excess of the \$3,150 it withheld, it has not provided any evidence of this. So, I find 50th Parallel is not entitled to a set-off against Mr. Webbe's award.

INTEREST, CRT FEES AND EXPENSES

21. The *Court Order Interest Act* (COIA) applies to the CRT. Mr. Webbe is entitled to pre-judgment interest on the \$2,450 debt award from July 30, 2022, which is 30 days after the wedding and a date I find reasonable, to the date of this decision. This equals \$60.40.
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. As Mr. Webbe was successful, I find he is entitled to reimbursement of \$175 in CRT fees. He did not claim dispute-related expenses, so I award none.

ORDERS

23. Within 30 days of the date of this order, I order 50th Parallel to pay Mr. Webbe a total of \$2,685.40, broken down as follows:
 - a. \$2,450 in debt for a partial refund of his damage deposit,
 - b. \$60.40 in pre-judgment interest under the COIA, and
 - c. \$175 in CRT fees.
24. Mr. Webbe is entitled to post-judgment interest, as applicable.
25. 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.

Megan Stewart, Tribunal Member