



Civil Resolution Tribunal

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Type: Small Claims

Civil Resolution Tribunal

Indexed as: *GM Garage Doors Inc. v. Circadian Developments (Falcon) Ltd.*,
2023 BCCRT 648

B E T W E E N :

GM GARAGE DOORS INC.

APPLICANT

A N D :

CIRCADIAN DEVELOPMENTS (FALCON) LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. This dispute is about payment for garage door repairs.

2. The applicant, GM Garage Doors Inc. (GM), says that it performed garage door repairs requested by a tenant at a commercial property owned by the respondent, Circadian Developments (Falcon) Ltd. (Circadian). GM claims \$525 for payment of its repair invoice. Circadian says it did not request or authorize any repair work, and denies responsibility for the invoice.
3. GM is represented by a director, Shmuel Grinhute. Circadian is also represented by a director, Antonio Russo.
4. For the following reasons, I dismiss GM's 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 Circadian contracted with GM and whether it must pay GM's repair invoice.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant GM must prove its claims on a balance of probabilities (meaning "more likely than not"). I have read all the submitted evidence and arguments but refer only to what I find relevant to provide context for my decision. I note Circadian did not provide documentary evidence, despite having the opportunity to do so.
11. As noted above, GM seeks payment for garage door repairs it says it performed at a property undisputedly owned by Circadian. GM admits that a building tenant requested it to do the repair work. Circadian says that if GM did perform any repairs, Circadian is not responsible for the claim given it did not hire GM.
12. Much of GM's evidence and written arguments focus on the garage door's condition at the time of the repair work, and whether the tenant's actions prevented it from correctly diagnosing the issue. I have not addressed these arguments in detail here, as I find GM must first establish that Circadian is the correct respondent. In other words, GM must establish that Circadian is legally responsible to pay for the repairs GM allegedly completed at its property.
13. As noted, GM acknowledges that a building tenant, not Circadian, requested the repairs. However, GM says that Circadian should pay the invoice because garage doors in commercial buildings are typically the landlord's responsibility.

14. Circadian denies this, and says its tenant is responsible for garage door repairs under the terms of their lease. GM argues in reply that Circadian has not provided a copy of the lease to prove this. While I agree the lease is not in evidence, as the applicant GM has the burden of proving that Circadian should pay its invoice, rather than Circadian having the burden of proving it should not. For the following reasons, I find GM has not met its burden.
15. Although it does not say so explicitly, I find GM essentially argues that the tenant acted as Circadian's agent in requesting the repairs, so GM's repair contract was with Circadian. The law of agency applies when a principal (Circadian) gives authority to an agent (the tenant) to enter contracts with third parties (GM) on the principal's behalf. The principal will be liable for the agent's conduct if the agent had actual or ostensible (apparent) authority to enter into the contract (see *Keddie v. Canada Life Assurance Co.*, 1999 BCCA 541).
16. Actual authority stems from the legal relationship between principal and agent, created by a consensual agreement. Here, I find no evidence or argument that Circadian gave the tenant actual authority to bind Circadian to a repair contract.
17. I find the evidence also does not show that the tenant had apparent authority. Apparent authority flows from the principal's words or actions which lead a third party to believe the agent has authority to bind the principal (see *Keddie*).
18. GM provided screenshots of text messages that it says it exchanged with the "customer". The messages include the property address, photographs of the garage door, and GM's request for payment of the invoice. However, the screenshots do not identify who the "customer" is and GM does not provide further explanation in its arguments. So, I find these messages do not assist GM.
19. GM also provided a statement from its technician, AV, who says they performed the repair work. AV also describes interactions with the "customer" at the property but does not further identify who they spoke to. AV does not say, nor does GM argue, that the tenant represented it was authorized to request building repairs on behalf of

the building owner or otherwise. GM does not claim to have spoken with Circadian directly at all prior to completing the repair work, and I find it did not do so.

20. Nothing in GM's evidence shows that Circadian was aware of the tenant's request for garage door repairs at the time, and Circadian says it was not. So, I find Circadian did not make any representations to GM that the tenant could enter into a contract on its behalf.
21. I therefore find the tenant did not have actual or apparent authority to request GM to repair the garage door on Circadian's behalf. I find that it follows that GM did not have a contract with Circadian, and so GM may not seek payment of its invoice on this basis.
22. GM also argues that Circadian should pay the invoice because it benefited from GM's work. I infer GM alleges Circadian was unjustly enriched by receiving the benefit of the repair work without paying for it.
23. To establish unjust enrichment, GM must prove that:
 - a. Circadian was enriched,
 - b. GM suffered a corresponding deprivation or loss, and
 - c. There is no "juristic reason", or valid basis, for the enrichment (see *Kerr v. Baranow*, 2011 SCC 10).
24. I find there is insufficient evidence before me to conclude that Circadian was enriched by GM's repairs. For a claim in unjust enrichment to be successful, the enrichment must be unquestionable: *Peel (Regional Municipality) v. Canada*, 1992 CanLII 21 (SCC). Here, GM provided no evidence to support its argument that the landlord is typically responsible for garage door repairs in a commercial building. While I accept Circadian owns the property in question, I find any alleged enrichment is speculative. Returning the garage door to working order does not necessarily directly benefit Circadian if the garage door maintenance is indeed the tenant's responsibility under the terms of the lease. Again, GM has the burden here to prove Circadian was unjustly

enriched. In any event, Circadian specifically denies that any repairs were completed. Therefore, I find GM has not established that Circadian was enriched by the repairs.

25. Even if I had found that Circadian was enriched by GM's repairs and that GM had suffered a corresponding deprivation by not being paid, I would have found that there was a valid reason for the enrichment. In the previous CRT decision *572927 B.C. Ltd. v. RKI Properties Ltd.*, 2021 BCCRT 572, an applicant performed flooring work which the respondent had not authorized. The tribunal member found that while the respondent was enriched by the flooring work, the enrichment was not unjust because the respondent did not authorize the work and did not have a contract for the work. Though this decision is not binding on me, I find its reasoning persuasive and apply it here. As discussed above, I find Circadian did not request or agree to the garage door repairs. Even if Circadian was enriched by the repairs, which I find unproven, I find no reason for Circadian to pay GM for repairs it did not contract for or agree to.
26. In summary, I find GM has not established a contract with Circadian and has not proven Circadian was unjustly enriched by the repair work. So, I dismiss GM's claims against Circadian. Nothing in this decision prevents GM from initiating a claim or otherwise seeking payment from the tenant directly, subject to the applicable limitation period.
27. 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. Circadian was the successful party but did not pay fees or claim expenses. As GM was unsuccessful, I dismiss its claim for reimbursement of CRT fees.

ORDER

28. I dismiss GM's claims and this dispute.

Alison Wake, Tribunal Member