



Civil Resolution Tribunal

Date Issued: August 25, 2023

File: SC-2022-008001

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Huang v. Yang*, 2023 BCCRT 727

B E T W E E N :

GUOXIONG HUANG

APPLICANT

A N D :

SENLIN YANG

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Eric Regehr

INTRODUCTION

1. The applicant, Guoxiong Huang, hired the respondent, Senlin Yang, to help retrieve the applicant's car from QZ, who had taken the applicant's car without his consent. The applicant alleges that the respondent did not fulfill the terms of their agreement. He claims \$788, broken down as \$392 in notary fees, \$96 in courier fees, and a \$300 refund of the fees he paid the respondent.

2. The respondent says that the parties mutually terminated their agreement after a week. The respondent blames the applicant's lack of organization and effort. The respondent says he spent considerable time assisting the applicant. The respondent initially indicated that he intended to counterclaim for his wasted time. Instead, in submissions, the respondent said he was willing to refund the applicant \$275, which is the \$300 the applicant paid less \$25 the respondent spent on notary fees. He asks me to dismiss the applicant's remaining claims.
3. The parties are each self-represented.

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. In some respects, both sides to this dispute call into question the credibility, or truthfulness, of the other. However, in the circumstances of this dispute, I find that it is not necessary for me to resolve the credibility issues that the parties raised. I therefore decided to hear this dispute through written submissions.
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 pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.
8. I note that most of the parties' correspondence in evidence is not in English. CRT rule 1.7(5) says that all evidence must be in English or translated into English. The applicant provided a copy of the parties' messaging history with either translations or summaries in the margins. The respondent does not dispute the accuracy of these translations and summaries, so I have accepted them as accurate and relied on them. The respondent did not translate any non-English correspondence he provided. I have not considered that evidence.

ISSUES

9. The issues in this dispute are:
 - a. Did the parties have a binding contract?
 - b. If so, who repudiated it?
 - c. If the respondent repudiated the contract, what, if anything, are the applicant's damages?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant must prove his claims on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. In the summer of 2022, QZ had the applicant's car without the applicant's consent. The evidence is not entirely clear but it appears QZ had rented the applicant's car and failed to return it. The applicant wanted it back, but QZ was in Ontario while the applicant lived in BC. A mutual acquaintance introduced the applicant and respondent because the respondent lived near QZ and might be able to help.

12. The respondent sent a written “Agency Agreement” to the applicant on July 21, 2022. The applicant signed it, but the respondent never did. The respondent questions whether it is binding. A contract can be formed without a formal, mutually signed agreement. There only needs to be an outward expression of an agreement, which can be in writing, verbal, implied from the parties’ conduct, or some combination of these. See *Le Soleil Hotel & Suites Ltd. v. Le Soleil Management*, 2009 BCSC 1303, at paragraphs 322 to 325. I find that by drafting the agreement and sending it to the applicant to sign, the respondent indicated that he agreed to the contract’s terms. By signing the agreement, the applicant accepted the terms. I find that the Agency Agreement is a binding contract.
13. According to that agreement, the applicant would pay the respondent for work in 3 phases: \$600 to track down the car, \$400 to assist with preparing documents for, and dealing with, the police and courts, and \$1,000 after the car was retrieved. The agreement required a \$300 payment upon signing, which the applicant made. The applicant also couriered a specific power of attorney to the respondent so he would have legal authority to deal with the car. The respondent paid \$25 to have the power of attorney witnessed and notarized.
14. The respondent says that over the following week, he made “intensive efforts” to help the applicant, mostly with respect to reporting the matter to police and gathering details about QZ. He says he urged the applicant to take certain steps, but the applicant failed to follow his advice. He says the applicant was disorganized and wasted the respondent’s time with lengthy, pointless phone calls.
15. On July 25, 2022, the respondent sent the applicant a lengthy message. The respondent said that the applicant needed to act in a more “timely and proper manner” and take the respondent’s advice. The respondent also demanded an increase in his fee from \$2,000 to \$4,000. The respondent said if the applicant could not accept this amendment, he would terminate their agreement and keep the \$300 the applicant had already paid. The applicant demanded a refund.

16. The parties agree that their agreement came to an end on July 25, 2022. I find that the respondent repudiated the agreement on that day by unilaterally doubling his fee. A repudiation occurs when a party, through words or actions, shows that they no longer intend to fulfil the terms of a contract. Attempting to renegotiate a fundamental contractual term may amount to a repudiation if the party making the counteroffer demonstrates that they reject the original contract. See *Salminen v. Garvie*, 2011 BCSC 339, at paragraphs 35 to 39. Here, I find that the respondent's demand for more money showed that he did not intend to be bound by the parties' original agreement. I say this in part because the respondent admitted he had no intention of continuing to work for his original fee. I also find it unproven that the applicant breached or repudiated the contract by failing to follow the respondent's advice, as the respondent alleges. There is simply no accepted evidence to support these allegations.
17. When a party repudiates a contract, the other party can accept the repudiation. If they do, the contract is at an end and the party who accepted the repudiation can claim damages. I find that the applicant accepted the respondent's repudiation by demanding a refund. This means that the applicant may be entitled to damages.
18. The general rule for assessing damages for a breach of contract is that the innocent person (here, the applicant) is entitled to the amount of money that would put them in the same position as if the contract had been performed. These are called "expectation damages". I find that in the circumstances here, it is not possible to calculate expectation damages because the respondent did not guarantee that the car would be recovered. He simply agreed to help.
19. When it is not possible to assess expectation damages, the applicant's losses can be assessed as "reliance damages". These are damages that compensate the applicant for expenses they incurred relying on the existence of a contract.
20. I find that the applicant's claims for \$392 in notary fees and \$96 in courier costs are reliance damages because he essentially says they were a waste of money. I agree. I find that the applicant relied on the respondent to assist him with finding the

car, but there is no evidence the respondent took any meaningful steps to do so. I therefore find that the applicant's efforts to draft and send a power of attorney were a waste. As the respondent points out, the applicant provided no invoice or receipt to prove his notary or courier fees. I nevertheless find he spent some amount, as the power of attorney and courier envelope are in evidence. On a judgment basis, I find that \$300 is reasonable compensation for the power of attorney and courier.

21. As for the \$300 in fees, I find that the respondent has no legal basis to keep those funds. While I accept that the parties communicated between July 18 and 25, 2022, according to the agreement the respondent was supposed to first track down the car's location. Based on the respondent's own description of his activities during that week, he took no steps to do so. I find that he has not proven that he provided the applicant with any value for his time spent.
22. In making this decision, I have decided not to deduct the \$25 the respondent spent notarizing the power of attorney. I find that as the party who repudiated the contract, the respondent is not entitled to a set off.
23. In summary, I order the respondent to pay the applicant \$600.
24. The *Court Order Interest Act* (COIA) applies to the CRT. The applicant is entitled to pre-judgment interest from July 25, 2022, to the date of this decision. This equals \$22.27.
25. 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 find the applicant was substantially successful, and so he is entitled to reimbursement of his \$125 in CRT fees. The applicant also claimed \$200 in translation fees. However, other than the applicant's statement, there is no evidence that the applicant hired a translator. For example, there is no translator invoice and nothing in the translated correspondence to indicate it was professionally translated. I dismiss this aspect of the applicant's claim.

ORDERS

26. Within 30 days of this order, I order the respondent to pay the applicant a total of \$747.27, broken down as follows:
- a. \$600 in damages,
 - b. \$22.27 in pre-judgment interest under the COIA, and
 - c. \$125 in CRT fees.
27. The applicant is entitled to post-judgment interest, as applicable.
28. I dismiss the applicant's remaining claims.
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.

Eric Regehr, Vice Chair