



Civil Resolution Tribunal

Date Issued: October 4, 2023

Files: SC-2022-009629
SC-2022-009635
SC-CC-2023-001584
SC-CC-2023-001587

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. v. Inglis*, 2023 BCCRT 840

B E T W E E N :

ASLAN ELECTRICAL, PLUMBING, GASFITTING, REFRIGERATION &
SHEETMETAL SERVICES LTD.

APPLICANT

A N D :

BRIAN INGLIS

RESPONDENT

A N D :

ASLAN ELECTRICAL, PLUMBING, GASFITTING, REFRIGERATION &
SHEETMETAL SERVICES LTD.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Alison Wake

INTRODUCTION

1. These 4 linked disputes, consisting of 2 claims and 2 counterclaims, are about a boiler replacement. The respondent and applicant by counterclaim, Brian Inglis, hired the applicant and respondent by counterclaim, Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. (Aslan), to replace the boiler in his home.
2. Aslan claims payment for two invoices it issued to Mr. Inglis for the boiler replacement. In SC-2022-009629 (9629), Aslan claims \$3,655.52 for payment of its invoice #21I3022G. In SC-2022-009635 (9635), Aslan claims \$2,555.53 for payment of its invoice #21I2802E. Mr. Inglis says that Aslan performed its work incompetently and negligently, and he denies liability for both invoices.
3. In counterclaim SC-CC-2023-001584 (1584), Mr. Inglis claims \$1,419.60 which he says he paid to another company to repair Aslan's work. He also initially claimed \$500 for replacement of a manual which he says Aslan did not return to him. However, in submissions Mr. Inglis acknowledges the manual has been returned, and he is no longer claiming this \$500, so I will not address it further.
4. In counterclaim SC-CC-2023-001587 (1587), Mr. Inglis seeks a refund of the deposit he paid to Aslan and claims damages associated with Aslan's installation of the new boiler. He claims \$4,322.92, which is the amount Aslan charged him for the boiler. Aslan disagrees with Mr. Inglis's counterclaims.
5. Aslan is represented by an employee and Mr. Inglis is self-represented.

JURISDICTION AND PROCEDURE

6. 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.
7. 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, the parties in this dispute call into question the credibility, or truthfulness, of the other. 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.
8. 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.
9. 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.

Style of cause

10. The Dispute Notices generated by the CRT in 9629 and 9635 show Aslan's name as:

ASLAN
ELECTRICAL,PLUMBING,GASFITTING,REFRIGERAT
SHEETMETAL SERVICES LTD.

11. However, Aslan's correct legal name on its BC Company Summary, including the unusual spacing, is "Aslan Electrical,Plumbing,Gasfitting,Refrigeration& Sheetmetal Services Ltd.". I find the truncation in the Dispute Notice was simply a CRT system

glitch or technical error. So, I have used Aslan's correct legal name in the style of cause above.

Small claims monetary limit

12. As noted above, Aslan claims a total of \$6,211.05 in its two separate claims for its invoices. Mr. Inglis has claimed a total of \$6,242.52 between his two counterclaims. The CRT's small claims monetary limit is \$5,000, which means that an applicant may only claim up to \$5,000 per claim in the CRT's small claims jurisdiction. However, an applicant may bring multiple claims of up to \$5,000 each if the claims are sufficiently distinct from one another (see the non-binding but persuasive analysis in *De Bayer v. Yang*, 2019 BCCRT 298). Section 118 of the CRTA also allows an applicant to adjust their claim to fit within the monetary limit.
13. Here, a note from the CRT case manager indicates that they discussed the monetary limit with both parties. The case manager warned the parties that the full claimed amounts may not be awarded if their claims had been inappropriately split to fit within the CRT's jurisdiction, and directed the parties to address this issue in their arguments.
14. I begin with Aslan's claims, 9629 and 9635. Mr. Inglis argues Aslan's two invoices related to the same job and that it is "questionable" why they issued two invoices and filed two claims. Aslan says that it issued one invoice for electrical work and another for gas, but did not provide further arguments about why separate claims are appropriate.
15. While each of Aslan's claims is for a different invoice, the two invoices are both for service at the same location (Mr. Inglis's residence), and the description of work in each invoice includes work to replace Mr. Inglis's boiler. The dates for the labour provided overlap between the two invoices. Also, Aslan provided only one work authorization in evidence, with the scope of work listed as "boiler not working".
16. So, I find the parties had one contract to repair or replace Mr. Inglis's boiler. They did not have separate contracts for electrical work and gas work. I find Aslan's two

invoices were both issued under the same contract, and so they are not sufficiently distinct to form the basis of two separate claims. As Aslan pursued both disputes and did not further address the possible claim-splitting issue in its arguments despite having the opportunity to do so, I find that has abandoned its entitlement to anything more than \$5,000. It follows that Aslan is limited to claiming a combined total of \$5,000 for 9629 and 9635. However, I may consider Aslan's evidence of its claims above \$5,000 even though I may not order more than that amount: see *Klondike Contracting Corporation v. Abadian*, 2021 BCPC 145.

17. I also find Mr. Inglis's two counterclaims are properly one claim. Mr. Inglis makes no arguments about whether his two counterclaims are sufficiently distinct to proceed separately, and both claims are for costs he says he incurred because of Aslan's boiler installation.
18. In addition to his two counterclaims, Mr. Inglis denies owing Aslan anything under its claimed invoices. I find permitting Mr. Inglis to set-off the entire \$5,000 claimed by Aslan while also claiming \$5,000 in his counterclaims would amount to claim-splitting and would be inconsistent with the CRT's small claims monetary limit. I find Mr. Inglis is limited to a maximum total of \$5,000 in damages and set-offs combined. In other words, Mr. Inglis's total counterclaim plus any allowed set-offs for Aslan's invoices cannot exceed \$5,000. Again, I may consider evidence of a higher amount.

ISSUES

19. The remaining issues in this dispute are:
 - a. What amount, if any, must Mr. Inglis pay Aslan for the boiler replacement?
 - b. What amount, if any, must Aslan pay Mr. Inglis in damages for allegedly substandard work?

EVIDENCE AND ANALYSIS

20. In a civil proceeding like this one, each of the parties must prove their respective claims on a balance of probabilities (meaning “more likely than not”). This means Aslan has the burden to prove its claims in 9629 and 9635, while Mr. Inglis has the burden to prove his claims in 1584 and 1587, except where that burden shifts as noted below. While I have read all the parties’ submitted evidence and arguments, I have only referred to those necessary to explain my decision.
21. I note Aslan did not provide reply submissions in 9635 though it had the opportunity to do so. Aslan provided some duplicate evidence between the two disputes, as did Mr. Inglis. I considered the parties’ submissions and evidence globally in reaching my decision. This is because in each dispute, the parties are the same, the issues are linked, and the submissions and evidence overlap significantly.
22. The background facts are undisputed. In August 2021, Mr. Inglis hired Aslan to replace the boiler in his home. Aslan ordered and partially installed a new boiler over several days in September 2021, but the boiler was not fully working. Aslan then provided a quote for additional parts and labour to finish the installation in October 2021. Aslan says Mr. Inglis did not respond to this quote, whereas Mr. Inglis says Aslan abandoned the job. I find nothing turns on this, as this dispute concerns the work that Aslan had already completed.
23. Aslan provided an undated work authorization form with Mr. Inglis’s address as the work location, with the scope of work listed as “boiler not working”. The form says the work will be charged on a time and materials basis, and sets out Aslan’s hourly rates for regular, overtime and double time work. There is a signature on the form which I infer is Mr. Inglis’s, given the address and job description match what he hired Aslan for, and because he does not dispute signing the form.
24. I find the work authorization form is the parties’ contract. It says that Mr. Inglis acknowledges responsibility for all labour and parts until the equipment is repaired or the contract is terminated. There is also generally an implied term in contracts for

professional services that the work will be done to a reasonably competent standard. In open-ended hourly contracts, another commonly implied term is that the hours spent are reasonably required and put to some useful purpose. See the non-binding but persuasive decision *Simple Moves North Shore Movers Inc. v. Kenney*, 2022 BCCRT 452, referring to *Herbert v. Smith*, 2010 NSSM 44. I find it is appropriate to imply both terms here, and note the burden is on Mr. Inglis to prove Aslan has breached these implied terms, as discussed further below.

25. Mr. Inglis argues that Aslan did not send him its two invoices until October 2022, over a year after the work orders were issued. I find this is supported by the evidence, and Aslan did not explain the reason for the delay. However, while I acknowledge Mr. Inglis's frustration with this timing, I note that the work authorization does not require that Aslan provide invoices within a specific time frame. In any event, I find Mr. Inglis has not been prejudiced by this delay, for two reasons. First, Aslan initiated both disputes against Mr. Inglis in December 2022, well within 2 years of performing the work, so it would have been within the applicable limitation period to begin the disputes even if its invoices had been issued earlier. Second, given my conclusions on interest below, I find the delay did not result in any additional cost to Mr. Inglis.
26. Mr. Inglis's arguments and evidence about the quality of Aslan's work overlap between his responses to Aslan's claims and his own counterclaims. I find allowing both a set-off for allegedly negligent work and awarding Mr. Inglis compensation for deficiencies would amount to double recovery for the same issue. So, I will first consider whether Aslan has proven it is entitled to payment for its work, and will then consider whether Mr. Inglis has proven he is entitled to compensation for any deficiencies in Aslan's work.

Work orders

27. Mr. Inglis specifically disputes the labour hours claimed in Aslan's invoices. So, I find I must determine whether Aslan has proven it is entitled to payment for the claimed hours.

28. Aslan submitted 10 work orders in evidence, 2 of which are duplicates of each other. All the work orders have the same “date of order”, which is August 26, 2021, but each contains a “time and labour record” showing the date and hours of the technician’s labour. In referring to the dates of specific work orders below, I am referring to the date in the time and labour record of each work order.

29. In 9629, Aslan claims \$3,655.53 for invoice #21I3022G. The invoice reflects 15 hours of labour at regular rates and 1 hour of overtime. It also accounts for Mr. Inglis’s deposit payment of \$3,500. In support of the labour and mileage charges, Aslan provided 3 work orders as set out in the table below:

Work Order Date	Hours	Mileage (km)	Description of work
September 20	9 regular, 1 overtime	126	Installed boiler
September 28	3.5 regular	60	Material list/discussing changes with Paul
September 30	2.5 regular	0	Material list for boiler job

30. In 9635, Aslan claims \$2,555.53 for invoice #21I2802E. That invoice includes 20.5 hours of labour at regular rates plus 1 hour of overtime. In support of the labour and mileage charges for this invoice, Aslan provided 6 work orders as set out in the table below:

Work Order Date	Hours	Mileage (km)	Description of work
August 26	2.5 regular	62	Troubleshoot boiler Found faulty gas valve Blown Tekmar control Boiler manifold extremely corroded
September 20	9.5 regular	60	Install new boiler

			Troubleshoot wiring Need to return to finish troubleshoot
September 22	2 regular, 1 overtime	60	Troubleshoot control wiring Need to return to continue
September 23	2 regular	60	Troubleshoot Tekmar controls
September 27	3 regular	0	Work with Paul to re-design piping & control wiring for new boiler
September 28	1.5 regular	30	Material list for new Tekmar control install

31. Aslan also provided a duplicate copy of its September 30, 2021 work order in dispute 9635. I find this was likely an error because it had already been provided as evidence in 9629, and because without it, the work order hours add up to the hours Aslan included in invoice #21I2802E.

32. I begin with the work orders dated August 26, 2021, and September 20, 2021. These work orders all show a signature underneath the heading, “the scope and hours of work have been explained and I acknowledge indebtedness”. This signature matches the signature on the work authorization form, and so I find it belongs to Mr. Inglis. So, I find Aslan is entitled to charge for the labour shown on these work orders, with one exception. Mr. Inglis says one of Aslan’s technicians left his residence for approximately 2 hours on September 20, 2021. Aslan says that its hours can be verified by vehicle tracking, but provided no vehicle tracking information in evidence, nor did it provide a statement from the technician. On balance, I accept Mr. Inglis’s submission about the technician’s absence, and find Aslan must deduct 2 hours of regular labour, plus GST. I find this amount may be deducted from either invoice as both include labour on September 20, 2021. I return to this below.

33. Mr. Inglis also says that the same technician spent “a considerable amount of time” on the phone with another Aslan employee at a different job site. However, Mr. Inglis

provided no evidence of this and did not further explain how much time the technician was on the phone, so I make no deductions for this.

34. Next, the work orders dated September 22 and 23, 2021. These work orders are not signed, and Mr. Inglis specifically disputes that anyone from Aslan was at his home on those dates. Again, Aslan provided no vehicle tracking information or statement from its technician, and does not address this further in its submissions. I find Aslan has not proven its entitlement to the labour and mileage set out in these work orders, and so it must deduct 4 hours of regular time, 1 hour of overtime, and 120 kilometers of mileage from invoice #21I2802E, plus GST, as set out below.
35. Finally, the work orders dated September 27, 28 and 30, 2021. Again, these work orders are not signed and Mr. Inglis disputes that anyone from Aslan was at his residence on these dates. However, he says two Aslan employees were at his residence for approximately 45 minutes on September 29, 2021. There is no work order in evidence for September 29, so I find either Mr. Inglis is mistaken about the date that the employees were there, or the work orders are dated incorrectly. I find the work orders dated September 28, 2021 likely relate to this visit, because they include mileage charges and there are two work orders, which is consistent with two employees visiting Mr. Inglis's home for part of the time as he described. So, I allow the labour and mileage set out in the September 28, 2021 work orders.
36. The work orders for September 27 and 30 do not include mileage, which is consistent with Mr. Inglis's submission that Aslan employees were not at his home on those dates. However, this does not mean Aslan's technicians did not perform the work as listed, which was to re-design the boiler's control wiring and prepare a list of materials. I find it likely Aslan performed this work, as Mr. Inglis undisputedly requested that it provide an estimate of the cost to complete the boiler installation. The burden is on Mr. Inglis to prove the hours in the work orders were not reasonably necessary, and I find he has not done so here. So, I allow the labour hours set out in these work orders.

Other charges

37. The invoices also include charges for parts, which I find are supported by the work orders I have found Aslan is entitled to claim for. The parts Aslan invoiced for are not particularly disputed by Mr. Inglis in any event, other than the cost for the new boiler itself, which I address below as part of Mr. Inglis's counterclaims. So, I make no deductions for parts, subject to my findings about the boiler below.
38. Both invoices also list amounts for freight, disposal, and permits. Other than his general argument that he should not have to pay Aslan anything because its work was negligent, which I address below, Mr. Inglis does not specifically dispute these charges and I find they are contemplated in the work authorization form. So, I find Aslan has proven its entitlement to these charges.
39. In summary, I find the following deductions must be made from Aslan's invoices:

6 hours of regular labour at \$98 per hour:	\$588.00
1 hour of overtime at \$147 per hour:	\$147.00
120 kilometers of travel mileage at \$0.95 per kilometer	\$114.00
5% GST on total of \$849.00:	\$ 42.45
Total:	\$891.45

40. This leaves a balance of \$5,319.60 owing between the two invoices, which originally total \$6,211.05. As noted above, I find the two invoices are properly a single claim, and Aslan is limited to the CRT's small claims limit of \$5,000. So, I order Mr. Inglis to pay Aslan \$5,000, subject to my findings on Mr. Inglis's counterclaims below.

Counterclaims

41. In counterclaim 1587, Mr. Inglis claims \$4,322.92, which is the cost of the new boiler Aslan delivered to him and partially installed. Mr. Inglis says the new boiler was natural gas, where his former boiler operated on propane. Mr. Inglis says this was incompetent, negligent and dangerous, and he seeks a refund for the boiler's cost. In counterclaim 1584, Mr. Inglis claims \$1,419.60 which he says he paid to another plumbing company to fix Aslan's work.

42. I note that in both counterclaims, Mr. Inglis makes arguments about Aslan's invoices and work hours. As these arguments mirror Mr. Inglis's arguments in response to Aslan's claims, and I have already considered them in that context, I have not addressed them further as part of Mr. Inglis's counterclaims.
43. As the party alleging that Aslan's work was substandard, the burden is on Mr. Inglis to prove it: see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61. Generally, expert evidence is required to prove a professional's work was below a reasonable standard: see *Bergen v. Guliker*, 2015 BCCA 283.
44. Mr. Inglis provided a letter dated April 17, 2023, from IT, a Class A Gas Fitter. IT provided a list of his gas fitting qualifications and experience. Aslan did not dispute IT's qualifications or otherwise comment on this letter. I accept IT's letter as expert evidence under the CRT's rules.
45. IT's letter confirms that the boiler Aslan delivered to Mr. Inglis was set up for natural gas, not propane. He explains that because propane and natural gas have different relative densities, they require different manifold pressures. He says the installation instructions on the new boiler require the gasfitter to check the gas supply and to order a conversion kit if necessary. IT also says that the *BC Gas Safety Regulation* requires that the gas fitter adjust the input rate to the required rate, which requires that they determine the input source. He says Aslan did not check the supply, and that they should have determined that the homeowners used propane for fuel rather than natural gas. Mr. Inglis says this is also supported by a photograph he undisputedly sent to Aslan of his previous boiler's specifications, which clearly show propane as its fuel source. I agree.
46. As noted, Aslan did not respond to IT's evidence or provide an expert opinion of its own. Aslan does not address Mr. Inglis's allegation about the incorrect boiler other than in its response to counterclaim 1584, where it says that it gave Mr. Inglis a quote for converting the boiler to propane but that he did not reply. However, in its response to counterclaim 1587 Aslan says both that the quote was to "upgrade" Mr. Inglis's system to work more efficiently, and to "finish the work that was done". I find these

explanations inconsistent, and note Aslan's work orders and quote do not mention converting the boiler to propane. So, I accept IT's opinion and find that Aslan's work fell below a reasonable standard by failing to confirm Mr. Inglis's home's fuel source before ordering and installing the boiler.

47. Mr. Inglis also provided a November 28, 2021 invoice from another plumbing company for \$1,419.60. A note on the invoice says that the boiler was "completely hooked up incorrectly" and had to be converted for propane gas, as well as rewired. While this note is not expert evidence as it does not list the author's name or qualifications, I find its conclusions are supported by IT's letter. Again, Aslan did not directly address this evidence other than to say that the boiler is still in use.
48. While Mr. Inglis provided no evidence that a propane boiler would have cost less than the natural gas boiler plus the conversion cost, on balance, I accept Mr. Inglis's undisputed submission that the \$1,419.60 he paid the other company would not have been necessary if Aslan had ordered the correct boiler. So, I find Aslan must reimburse Mr. Inglis this amount in counterclaim 1584.
49. However, I dismiss Mr. Inglis's claim for a full refund of the boiler cost or a refund of the deposit he paid in 1587 as I find ordering it would amount to double recovery. It is undisputed that Mr. Inglis is still using the boiler now that it has been properly converted, and I find ordering this refund would place Mr. Inglis in a better position than he would have been in if not for Aslan's substandard work: see *Henry v. British Columbia (Attorney General)*, 2017 BCCA 420 at paragraphs 29 to 30.
50. Mr. Inglis also provided an invoice from a third company, which he says was to connect the boiler to his home's hydronic heat system. Mr. Inglis says that he provided this invoice to show that this part of the work was done at a "fraction" of Aslan's October 2021 quote. Mr. Inglis does not claim payment of this invoice in either counterclaim, so I have not considered it further.

51. In summary, Mr. Inglis must pay Aslan \$5,000 for its two invoices, and Aslan must pay Mr. Inglis \$1,419.60 in damages. The net result is that Mr. Inglis must pay Aslan \$3,580.40.
52. Aslan claims non-contractual interest under the *Court Order Interest Act* (COIA). However, the COIA does not apply if the parties have an agreement about interest. Here, the work authorization form allowed for contractual interest of 19.6% annually. So, I find that Aslan cannot claim COIA interest. Aslan did not claim contractual interest, so I make no order for interest.
53. 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. Aslan was partially successful in both its claims and so I find it is entitled to half of its paid CRT fees, or \$125. Mr. Inglis was successful in 1584 so I find he is entitled to the \$75 in CRT fees he paid in that claim, but is not entitled to his paid CRT fees for 1587. The net result is that Mr. Inglis must pay Aslan \$50 in CRT fees. Neither party claimed dispute-related expenses and so I make no order for them.

ORDERS

54. Within 21 days of the date of this decision, I order Mr. Inglis to pay Aslan a total of \$3,630.40, broken down as follows:
- a. \$3,580.40 in debt, and
 - b. \$50 in CRT fees.
55. Aslan is entitled to post-judgment interest, as applicable.
56. I dismiss the parties' remaining claims.

57. 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.

Alison Wake, Tribunal Member