



Civil Resolution Tribunal

Date Issued: December 1, 2023

File: SC-2022-009043

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Hoodicoff v. Archibald*, 2023 BCCRT 1050

BETWEEN:

DALE HOODICOFF

APPLICANT

AND:

CHRIS ARCHIBALD

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about alleged overcharging for renovation work.
2. The applicant, Dale Hoodicoff, hired the respondent, Chris Archibald, to do some work on his bathroom installation. Mr. Hoodicoff says that Mr. Archibald's quote for the labour kept changing, and that Mr. Archibald ultimately charged him \$340 for

materials, despite their agreement that Mr. Hoodicoff would purchase all materials. Mr. Hoodicoff suspects that Mr. Archibald took materials intended for his bathroom to use on another job. Mr. Hoodicoff claims \$700 for alleged overcharging on labour and materials.

3. Mr. Archibald denies Mr. Hoodicoff's claims. He says Mr. Hoodicoff was the party who kept changing the scope of work, and that Mr. Hoodicoff asked him to purchase more materials for the extra work he asked Mr. Archibald to complete. Mr. Archibald says that what he charged Mr. Hoodicoff was fair.
4. The parties are each self-represented.

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). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must act fairly and follow the law.
6. 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.

Request for oral hearing

7. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these.
8. Mr. Hoodicoff requested an oral hearing in this dispute. He advised CRT staff that he is uncomfortable expressing himself in writing and is concerned he will not be able to adequately argue his case using only written submissions. However, Mr. Hoodicoff did not specifically identify any special accommodation needs, such as for reading or writing difficulties, at the outset of this dispute. While Mr. Hoodicoff's written

submissions contain some grammatical issues and are short on punctuation, I find he was able to adequately explain his claim and the relevant issues.

9. Mr. Hoodicoff also says it will likely be important for the adjudicator to assess the parties' tone of voice and to ask questions, as the parties have each made allegations the other is lying about central facts. In some circumstances, issues about credibility and reliability can justify an oral hearing in a CRT dispute. See *Kang v. Nielsen*, 2021 BCCRT 879. The main issue Mr. Hoodicoff alleges Mr. Archibald is lying about is whether he took some of Mr. Hoodicoff's drywall to use on another job, which Mr. Archibald flatly denies. Given the speculative nature of Mr. Hoodicoff's allegation, discussed further below, I find it unlikely an oral hearing would reveal whether his allegation has merit.
10. Further, the credibility of witnesses is not determined solely by testing whose personal demeanor in a courtroom or tribunal proceeding appears to be the most truthful. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. Overall, I find that I am properly able to assess and weigh the documentary evidence and submissions before me.
11. Importantly, the CRT's mandate also includes proportionality and speedy resolution of disputes. Here, the monetary stakes are relatively low, and I find it would be disproportionate to delay these proceedings and incur the expense of an oral hearing. For all these reasons, I decided to conduct this dispute hearing through written submissions.

Claims not in the Dispute Notice

12. In submissions, Mr. Hoodicoff alleges that Mr. Archibald did not properly install the drywall and that he failed to use sealant when screwing shower head pipes into the wall. These allegations of substandard or deficient work were not contained in the Dispute Notice and Mr. Hoodicoff did not request any remedies for them. So, I find any claims about deficient work are not properly before me and I have not made any findings about them below.

ISSUE

13. The issue in this dispute is whether Mr. Archibald must reimburse Mr. Hoodicoff \$700 for alleged labour and material overcharges.

EVIDENCE AND ANALYSIS

14. In a civil proceeding like this one, the applicant Mr. Hoodicoff 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.
15. The parties agree that Mr. Hoodicoff asked Mr. Archibald to complete his downstairs bathroom. A photo in evidence shows the existing basement was essentially unfinished, with no floors or walls. Mr. Archibald prepared a January 6, 2023 quote, totaling \$4,166.40. The parties agreed that Mr. Hoodicoff would purchase necessary materials. So, Mr. Archibald’s quote was for labour only. It included: framing, installing drywall, taping and mudding, installing in-floor heating, a shower with waterproofing, tile (floor and shower), a suspended ceiling, a heat duct, a vanity, toilet, door, and other fixtures.
16. It is undisputed that Mr. Hoodicoff thought Mr. Archibald’s quote was too high and asked him to prepare an amended version, largely limited to installing the shower. Mr. Archibald’s second January 6, 2023 quote totaled \$1,705.20, and included only framing, drywall, shower install with waterproofing, and tile and grout installation. I note the rates for each of those items was different on the second quote than they were on the initial quote, which Mr. Archibald did not explain. In any event, it is undisputed that Mr. Hoodicoff agreed to the second January 6, 2023 quote.
17. Mr. Hoodicoff says the parties met to go over the job and prepare a materials list for Mr. Hoodicoff to buy before Mr. Archibald started work. Mr. Archibald does not deny this. The evidence shows Mr. Hoodicoff bought various materials and supplies, including 7 sheets of standard drywall.

18. Mr. Archibald provided Mr. Hoodicoff with a February 19, 2023 invoice, once the job was done. It totaled \$2,778 but indicated that Mr. Hoodicoff had already paid \$1,971. So, the outstanding balance was \$807, which Mr. Hoodicoff paid.
19. Mr. Archibald's February 19 invoice charged \$100 less for framing, \$12 less for drywall, and \$40 less for tile install than quoted on the second January 6, 2023 quote. However, the February 19 invoice charged \$30 more for the shower install and waterproofing than Mr. Hoodicoff had agreed to (\$390 rather than \$360). Mr. Archibald provided no evidence about the reason for that increase. In the absence of any evidence that Mr. Hoodicoff agreed to the increase, I find Mr. Archibald is limited to the quoted amount, and he must refund Mr. Hoodicoff \$30.
20. Mr. Archibald's February 19 invoice also included several items that were not on the second January 6, 2023 quote, including taping and mudding (\$576), installing a suspended ceiling (\$260), and installing a heat duct (\$100). Mr. Hoodicoff does not specifically argue that Mr. Archibald did not complete this work, or that he completed the work without Mr. Hoodicoff's authority. I note that Mr. Archibald provided an undated text message exchange where Mr. Hoodicoff asked Mr. Archibald to install a "T bar" ceiling while waiting for tile to arrive. Mr. Archibald responded that the ceiling was not in his quote, and Mr. Hoodicoff replied: "I know", "I understand".
21. Overall, I do not accept Mr. Hoodicoff's submission that Mr. Archibald missed the additional work on his second quote, and he should therefore have to "eat" the cost of those items. Rather, I find Mr. Hoodicoff likely authorized Mr. Archibald during the project to do the additional work noted above, on the understanding that Mr. Archibald would charge for it. So, I find Mr. Archibald was entitled to charge Mr. Hoodicoff a reasonable amount for the extra work he completed on the project.
22. The amounts Mr. Archibald charged for the taping and mudding and heat duct installation were the same amounts indicated on his initial January 6, 2023 quote for those items. Further, he charged \$130 less for the ceiling than indicated in his initial quote. I find nothing obviously unreasonable about the amounts charged. On

balance, I find Mr. Hoodicoff has not established that Mr. Archibald overcharged him for the additional work that was not included in the second January 6, 2023 quote.

23. Mr. Hoodicoff's main complaint appears to be a \$340 charge on Mr. Archibald's February 19 invoice for "materials purchased". Mr. Hoodicoff says that given the parties' agreement that he would buy the necessary materials, Mr. Archibald was not entitled to charge him for materials. He also specifically takes issue with the fact that Mr. Archibald bought more drywall, as Mr. Hoodicoff submits that the parties had calculated how much would be needed at the beginning. As noted above, Mr. Hoodicoff suggests that Mr. Archibald took some of the drywall and other materials to use on another nearby job he was doing at the same time.
24. Mr. Archibald denies stealing any materials. He acknowledges that the parties initially agreed Mr. Hoodicoff would be responsible for buying materials. However, he says that as the project progressed, he discovered he had miscalculated a few materials. He also says he needed more materials for the increased scope of work. Mr. Archibald says that because Mr. Hoodicoff was busy, he agreed that Mr. Archibald could pick up additional materials and keep the receipts. Mr. Archibald notes that he did not charge Mr. Hoodicoff for his time or fuel to pick up the extra materials.
25. I find it is not overly unusual for a contractor to slightly underestimate materials required for a job. I also accept Mr. Archibald's submission that the extra work Mr. Hoodicoff requested beyond Mr. Archibald's quote, likely meant additional materials were needed. Mr. Hoodicoff did not provide any evidence to support his allegation that Mr. Archibald stole materials. Specifically, he provided no photos of the finished project and no statement from an expert or professional to establish the 7 drywall sheets and other materials he initially purchased would have been enough to complete the entire project. Overall, I find Mr. Hoodicoff's allegation of theft is speculative and unproven.
26. That said, I also find there is insufficient evidence the parties amended their agreement that only Mr. Hoodicoff would supply the materials. Mr. Archibald provided an undated text message exchange in which Mr. Hoodicoff asked if Mr. Archibald had

bought additional thin set for some of work he had done, and Mr. Archibald confirmed he had bought a bag the day before. Mr. Hoodicoff asked him to keep the receipt and said he would try to source additional thin set required for the project himself. I find the tone of Mr. Hoodicoff's text suggests he intended to continue buying materials himself, and that he had not generally agreed Mr. Archibald could purchase materials as needed. Therefore, I find Mr. Archibald breached the parties' agreement by buying materials and charging Mr. Hoodicoff for them on the final invoice.

27. The difficulty is that Mr. Hoodicoff would have had to buy the materials anyway, whether he bought them himself or reimbursed Mr. Archibald for them. So, what are Mr. Hoodicoff's damages?
28. Mr. Archibald provided receipts for the materials he says he purchased for Mr. Hoodicoff's job. They total over \$400, though it appears Mr. Archibald may have returned something. Overall, I accept that Mr. Archibald paid the \$340 for materials he charged for on his February 19 invoice, and he did not charge any mark-up.
29. However, the evidence shows that Mr. Hoodicoff received a discount on most of the items he bought at the same store Mr. Archibald bought materials from. For example, Mr. Hoodicoff paid \$17.73 per drywall sheet, while Mr. Archibald paid \$19.99 per sheet. Mr. Hoodicoff's discount was not a uniform rate and appears to have ranged between 0% and about 30%, depending on the item. So, on a judgment basis, I find that if Mr. Archibald had not breached the parties' agreement by purchasing materials, Mr. Hoodicoff likely would have saved about 15% by purchasing them himself. Therefore, I find Mr. Hoodicoff is entitled to a 15% refund on the \$340 in materials Mr. Archibald purchased, which equals \$51.
30. In summary, I find that Mr. Archibald overcharged Mr. Hoodicoff \$30 for the shower install and waterproofing work and \$51 for materials. So, I find Mr. Archibald must pay Mr. Hoodicoff \$81 in damages for breach of contract.

31. The *Court Order Interest Act* applies to the CRT. Mr. Hoodicoff is entitled to pre-judgment interest on the \$81 from February 20, 2023, the day he paid Mr. Archibald, to the date of this decision. This equals \$2.99.
32. 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. Mr. Hoodicoff was partially successful in this dispute, and so I find he is entitled to reimbursement of half his CRT fees, which equals \$62.50. Mr. Archibald did not pay any fees and neither party claimed any dispute-related expenses.

ORDERS

33. Within 21 days of the date of this decision, I order Mr. Archibald to pay Mr. Hoodicoff a total of \$146.49, broken down as follows:
 - a. \$81 in damages for breach of contract,
 - b. \$2.99 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 in CRT fees.
34. Mr. Hoodicoff is entitled to post-judgment interest, as applicable.
35. 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.

Kristin Gardner, Tribunal Member