



Civil Resolution Tribunal

Date Issued: December 21, 2023

File: SC-2023-002918

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. v. McClarty*, 2023 BCCRT 1125

B E T W E E N :

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

APPLICANT

A N D :

EDWARD MCCLARTY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about plumbing services.
2. The respondent, Edward McClarty, hired the applicant, Aslan Electrical, Plumbing, Gasfitting, Refrigeration & Sheetmetal Services Ltd. (Aslan) to investigate a slow

drain in his laundry room. Aslan says it has not been paid for its services, and claims \$975.24 for its unpaid invoice.

3. Mr. McClarty disputes Aslan's claims. He says Aslan's November 2021 work was duplicate work. He also says Aslan did not invoice him until January 2023.
4. Aslan is represented by a person I infer is an authorized employee. Mr. McClarty is 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). Section 2 of the CRTA states that the CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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.
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 to what extent Aslan is entitled to the claimed \$975.24 for plumbing work.

EVIDENCE AND ANALYSIS

10. As the applicant in this civil proceeding, Aslan must prove its claims on a balance of probabilities (meaning more likely than not). I have reviewed all the parties' submissions and evidence but refer only to what I find necessary to explain my decision.
11. Two Aslan technicians, DL and EQ, attended Mr. McClarty's home on November 22, 2021 to investigate the slow drain. Aslan submitted work order forms for both technicians. DL and EQ both recorded 5.5 hours on November 22, 2021. The work done is listed as "augured with K-50", which I infer means auguring the drain. Mr. McClarty does not dispute that Aslan's technicians attended his home and performed the above work on November 22, 2021.
12. Aslan's invoice for the November 22, 2021 visit charged \$975.24 for both technicians' time, plus a drainage machine charge, shop supplies, and mileage. Mr. McClarty does not dispute any of the individual charges on Aslan's invoice, or argue that any charges are unreasonable for the work completed. However, he says Aslan's November 2021 work was "duplicate" work. Mr. McClarty says Aslan previously attended his home in September 2021, and says he paid for the first visit right away. Mr. McClarty says all Aslan did was run an augur in the drain line, and says neither time removed any "deleterious substance" from his drain. He says his nephew diagnosed the issue and installed a removable expanding plug in the floor drain shortly after Aslan's November 2021 visit. Mr. McClarty says he hasn't had a problem since. Mr. McClarty says Aslan did not properly diagnose the problem and its November work was unnecessary.
13. For its part, Aslan does not dispute that it augured the drain at both visits. However, Aslan argues that it does not warranty auguring and says there are several reasons

why the drain could have had “build up” again between Aslan’s September and November visits.

14. There is an implied term in contracts for professional or trade services that the contractor’s work will be done to a reasonably competent standard. As the party alleging substandard work, Mr. McClarty bears the burden of proving it. See *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61. In general, expert evidence is required to prove whether a professional’s conduct fell below a reasonably competent standard. This is because an ordinary person does not know the standards of a particular profession or industry. The exceptions to this general rule are when conduct is obviously substandard or about something non-technical. See *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196, at paragraph 112.
15. The problem for Mr. McClarty is that he has not provided any expert evidence from another plumber to confirm that Aslan auguring his drain a second time in November 2021 was unnecessary or duplicate work. He also did not provide any further details of the work completed at Aslan’s September visit or Aslan’s September invoice. So, I find he has not proved that Aslan’s November work was duplicated or unnecessary.
16. Mr. McClarty also says Aslan should have sent its invoice from the November 2021 work within the same fiscal year because there are “taxation implications”, but did not do so until January 2023. Aslan acknowledges its delay in sending the invoice, which it says was due to staffing and office issues during the COVID-19 pandemic. I acknowledge Mr. McClarty’s submission that the invoice was sent quite late. However, there is no requirement for Aslan to send the invoice right away, and Mr. McClarty is still responsible to pay for Aslan’s services despite the invoicing delay. As noted, Mr. McClarty does not dispute the amounts Aslan charged for the November 2021 visit, apart from arguing it was duplicate work. None of the charges are obviously unreasonable. Therefore, I find Mr. McClarty is responsible to pay Aslan \$975.24 for its unpaid invoice.

Interest, CRT fees and expenses

17. The *Court Order Interest Act* applies to the CRT. Aslan is entitled to pre-judgment interest on the \$975.24 from January 13, 2023, the date the invoice was emailed to Mr. McClarty to the date of this decision. This equals \$43.11.
18. 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 Aslan was successful, I find it is entitled to reimbursement of \$125 in CRT fees. Neither party claimed dispute-related expenses.

ORDERS

19. Within 30 days of the date of this order, I order Mr. McClarty to pay Aslan a total of \$1,143.35, broken down as follows:
 - a. \$975.24 in debt,
 - b. \$43.11 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
20. Aslan is entitled to post-judgment interest, as applicable.
21. 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.

Leah Volkers, Tribunal Member