



# Civil Resolution Tribunal

Date Issued: February 20, 2024

File: SC-2022-009393

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Jhajj v. Anwar*, 2024 BCCRT 155

**B E T W E E N :**

BALRAJ SINGH JHAJJ (Doing Business As INTERGLOBE METAL  
CONSTRUCTION)

**APPLICANT**

**A N D :**

ROBINA ANWAR and MOHAMMAD ANWAR

**RESPONDENTS**

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## **REASONS FOR DECISION**

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Tribunal Member:

Kate Campbell

## **INTRODUCTION**

1. This dispute is about payment for renovation work.
2. The applicant, Balraj Singh Jhajj (Doing Business as Interglobe Metal Construction), says the respondents, Robina Anwar and Mohammad Anwar, failed to pay for work performed at their property. He claims payment of \$2,406 for labour and materials.

3. Ms. Robina Anwar admits she owns the property in question, and that a builder built a home on the property. She says she never communicated with Mr. Jhajj, so any liability lies with the builder. She also says some of Mr. Jhajj's work was done incorrectly.
4. Mr. Jhajj and Ms. Anwar are each self-represented in this dispute. Mohammad Anwar did not file a Dispute Response, so is technically in default.

## **JURISDICTION AND PROCEDURE**

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 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.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.

## **ISSUE**

8. Do the respondents owe Mr. Jhajj \$2,406 for labour and materials?

## EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, Mr. Jhajj, as applicant, must prove his claim on a balance of probabilities. I have read the parties' submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.
10. Mr. Jhajj provided an invoice dated November 27, 2022. According to the invoice, Mr. Jhajj installed wall cap flashing and a front entry arch at the respondents' home. The invoice totaled \$2,406, including tax. It is addressed to Robina Anwar and Mohammad Anwar.
11. Mr. Jhajj says that Mohammad Anwar was the home's builder, and that both respondents live in the home. He says that since Ms. Anwar is the homeowner, and Mohammed Anwar was the builder, they are responsible to pay the invoice.
12. Ms. Anwar agrees that she owns the home in question. This is confirmed by a land title document in evidence.
13. Ms. Anwar says she never communicated with Mr. Jhajj until he filed this CRT dispute, and never received his invoice, so she had no contract with him, and is not responsible for his bill. Ms. Anwar does not dispute that Mr. Jhajj worked on the home. Rather, she says his work was deficient and incomplete, which damaged the house's structure and exterior stucco. Ms. Anwar says the builder contacted Mr. Jhajj asking him to do repairs and finish the work, but Mr. Jhajj did not respond. Ms. Anwar says Mr. Jhajj will be paid once the work is finished, but does not say who will pay him.
14. Ms. Anwar did not specifically dispute that Mohammad Anwar was the builder, and she did not provide evidence indicating a different builder. Also, Mr. Jhajj provided copies of seven text messages about work to be performed on the house, from "Rubina Anwar Husband". Ms. Anwar did not explain who Mohammad Anwar is, so based on the parties' submissions, I accept Mohammad Anwar is her husband.
15. Finally, as noted above, Mohammad Anwar did not file a Dispute Response, so is technically in default under the CRT's rules. Generally, when a respondent is in

default, the CRT will assume they are liable. Mohammed Anwar did not provide any evidence in this dispute, include any evidence that they are not the builder.

16. For these reasons, I find that Mohammad Anwar was the builder. The law of agency applies when one party (the principal) gives authority to another party (the agent) to enter contracts with third parties on their behalf. Since Ms. Anwar did not dispute Mr. Jhaji's assertions that Mohammad Anwar is her husband, was the builder, and that they now live in the home together, I accept that Mohammad Anwar was acted as Ms. Anwar's agent and on his own behalf when hiring Mr. Jhaji to work on the house.
17. I turn now to the text messages in evidence. The first series of texts is from March to April, 2021, between Mohammad Anwar and Mr. Jhaji. The texts are about Mr. Jhaji coming to the house to do work. For example, on March 11, 2021, Mohammad Anwar wrote, "Please install flashing at the deck in the back...Need ASAP". Later, in a May 19, 2022 text, Mohammad Anwar wrote, "need flashing on top". In October 2022, Mr. Jhaji texted Mohammad Anwar, asking when he would be paid, and asking Mohammad Anwar to call him.
18. I find that these text messages show that Mohammad Anwar hired Mr. Jhaji to do the claimed work.
19. As noted above, Ms. Anwar says Mr. Jhaji's work was deficient, and damaged the house. To prove this assertion, she provided a photo that she says shows that the front entry flashing was bent, which damaged the stucco. She also provided a second photo, which she says shows missing flashing.
20. As the party alleging the deficiencies, Ms. Anwar has the burden of proving them (see *Absolute Industries v. Harris*, 2014 BCSC 287, at paragraph 61). Where a dispute's subject matter is technical or beyond common understanding, and is not obvious to a non-expert, it is necessary to produce expert evidence to prove the alleged deficiency (see *Bergen v. Guliker*, 2015 BCCA 283, paragraphs 124 to 131). Ms. Anwar did not provide any expert evidence, such as a report from another contractor, or a building inspection report. I find it is not obvious from the two photos

that the work was deficient or incomplete. The photos show some water or mold stains on the stucco, but I cannot tell what caused these or whether they are abnormal. The photos show no visible gaps or flaws in the construction. Also, there is no expert evidence before me confirming Ms. Anwar's assertion that the alleged deficiencies damaged the house's structure, or what it would cost to repair this damage.

21. For these reasons, I find Ms. Anwar has not proved that Mr. Jhajj's work was deficient. There is one text message from Mohammad Anwar stating, "please send invoice and finish your work". Mr. Jhajj replied twice, asking Mohammad Anwar to call him. There is no evidence that Mohammad Anwar did so, or ever specified what work needed to be completed. Without further evidence, I find this does not prove that Mr. Jhajj's work was incomplete. Also, there is a presumption in every construction contract that the contractor is entitled to have a reasonable opportunity to correct any deficiencies (see *Canadian Quality Stucco Ltd. v. Pangli*, 2022 BCPC 126). There is no evidence that the respondents told Mr. Jhajj what work was allegedly deficient or incomplete, even after Mr. Jhajj asked Mohammad Anwar to call him. Based on this, I find the respondents did not give Mr. Jhajj a reasonable opportunity to correct the alleged problems.
22. For these reasons, and because Mohammad Anwar is in default, I find the respondents must pay Mr. Jhajj the claimed \$2,406.
23. The *Court Order Interest Act* (COIA) applies to the CRT. I find Mr. Jhajj is entitled to pre-judgment interest from November 27, 2022 (the invoice's date). This equals \$134.53.
24. As Mr. Jhajj was successful in this dispute, under the CRTA and the CRT's rules I find he is entitled to reimbursement of \$125.00 in CRT fees. Neither party claimed dispute-related expenses, so I order none.

## ORDERS

25. I order that within 30 days of this decision, the respondents Robina Anwar and Mohammad Anwar must pay Mr. Jhajj a total of \$2,665.53, broken down as follows:
- a. \$2,406 in debt,
  - b. \$134.53 in pre-judgment interest under the COIA, and
  - c. \$125 in CRT fees.
26. The applicant is entitled to post-judgment interest under the COIA, as applicable.
27. Under CRTA section 58.1, a validated copy of the CRT's order can be enforced through the BC Provincial Court. Once filed, a CRT order has the same force and effect as an order of the BC Provincial Court.

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Kate Campbell, Tribunal Member