Civil Resolution Tribunal

Date Issued: March 1, 2024

File: SC-2023-003947

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Vancouver Island Labour Services Inc. v. Franchino*, 2024 BCCRT 211

B E T W E E N :

VANCOUVER ISLAND LABOUR SERVICES INC.

APPLICANT

A N D :

GUIDO FRANCHINO

RESPONDENT

REASONS FOR DECISION

Tribunal Member: Megan Stewart

INTRODUCTION

1. This dispute is about an unpaid invoice.

2. The applicant, Vancouver Island Labour Services Inc., provided services to the respondent, Guido Franchino. The applicant says the respondent did not pay its final

$1,881.87 invoice, and claims this amount in debt. The applicant is represented by its owner.

3. The respondent does not deny owing the applicant for some services, but says the applicant overcharged them by 4 hours' worth of work. The respondent says they asked the applicant to correct the invoice and to allow them additional time to pay it, but received no response. The respondent is self-represented.

JURISDICTION AND PROCEDURE

4. These are the Civil Resolution Tribunal's (CRT) formal written reasons. The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 says 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.

5. 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.

6. 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.

7. Where permitted by CRTA section 118, 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.

Preliminary issues

8. First, I was unable to open 2 pieces of the applicant's evidence. Through CRT staff, I asked the applicant to resubmit that evidence in an accessible format, which it did. The respondent was invited to comment on the resubmitted evidence, and they did. I find no prejudice arises in admitting either the applicant's resubmitted evidence or the respondent's comments, and I have considered both in coming to my decision.

9. Next, while the respondent did not explicitly request an oral hearing, in their comments on the applicant's resubmitted evidence, they indicated they wished to discuss their written evidence with the CRT. They said this was because they felt the CRT was not willing to properly consider it. The CRT primarily conducts its adjudications through written hearings. In some cases, for example where there are language barriers, a tribunal member may decide an oral hearing is appropriate. However, whether a tribunal member decides to proceed with a written or an oral hearing, they must act professionally and with integrity, and conduct the hearing fairly. This includes properly considering the evidence in the context of the dispute.

10. Here, I find the respondent's written evidence clear and understandable, and I have accepted their additional comments. In some respects, each party questions the other's credibility, or truthfulness. I note the decision in *Yas v. Pope*, 2018 BCSC 282, where the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I am properly able to assess and weigh the evidence and submissions before me, and make the necessary credibility findings. There is no other compelling reason for an oral hearing, especially considering the CRT's mandate to provide proportional and speedy dispute resolution. So, I decided to hear this dispute through written submissions alone.

ISSUES

11. The issues in this dispute are:

    a. Did the applicant overcharge the respondent for labour services?

    b. If not, must the respondent reimburse the applicant $1,881.87 for its unpaid invoice?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, the applicant must prove its claims on a balance of probabilities, meaning more likely than not. As noted above, I have read all the parties' submissions and evidence, but refer only to information I find necessary to explain my decision.

13. The applicant began providing temporary labour services to the respondent in May 2021, for which the respondent paid periodically. This continued until September 2022, when the respondent did not pay the applicant's final invoice. None of this is disputed.

14. The applicant's September 29, 2022 invoice shows it billed the respondent for 55 hours of labour over 4 days in September, for a total of $1,881.87. The applicant submitted text messages that largely support the dates set out in the invoice, though the messages do not specify the number of hours worked. However, the applicant also submitted 2 timesheets reflecting the individual hours logged for each labourer's services to the respondent in September. I note there is some discrepancy between the days worked on the timesheets and the days worked on the invoice. Having said that, I find the total number of hours billed on the invoice matches the total number of hours recorded on the timesheets.

15. For their part, the respondent says the applicant overcharged them for 4 hours' work, though they do not specify the hours they say they were overcharged for. The respondent also says they disputed the number of billed hours with the applicant, but the applicant refused to make any adjustments.

16. Although the applicant says it sent the respondent the timesheets for authorization, the screenshot of the applicant's email account in evidence does not support this. The screenshot shows the applicant sent the respondent other timesheets to authorize, but not the timesheets related to the invoice in question. So, there is no evidence the respondent confirmed the hours worked before the applicant issued the final invoice.

17. Even so, text messages in evidence do not show the respondent objected to the invoice when the applicant sent it to them, which I would have expected them to have done had they disagreed with the hours billed. On November 15, 2022, the applicant texted the respondent to remind them their invoice was overdue. The respondent replied "just trying to conclude all I just need a couple of weeks". Then, when the applicant texted again in January 2023 to advise the respondent they were taking legal action, the respondent wrote "I will send you a cheque just give me a little time to work things out (…) I have always paid you so I asked for a little understanding I don't forget my obligations".

18. Based on the above, I find the respondent did not raise any concerns about the invoice or the hours billed until the applicant filed its application for dispute resolution. In addition, the respondent has provided no evidence or explanation to support their assertion that the applicant overcharged them. In contrast, I find the applicant's timesheets and invoice consistent with one another in the number of hours that the applicant charged the respondent for in September 2022. As noted above, this is reflected in the parties' text message evidence. So, I find the applicant did not overcharge the respondent. It follows that the applicant is entitled to payment for the services provided. I order the respondent to pay the applicant the claimed $1,881.87.

19. In submissions, the applicant requests unspecified punitive damages. Punitive damages are restricted to conduct that is so outrageous and malicious as to be deserving of punishment on its own (see *Honda Canada Inc. v. Keays,* [2008] 2 SCR 362). Here, I do not find the respondent's conduct so wrongful as to warrant a punitive damages award. I dismiss the applicant's claim for punitive damages.

20. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the $1,881.87 debt award from September 29, 2022, the invoice's date, to the date of this decision. This equals $113.08.

21. 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 the applicant was successful, I find it is entitled to

reimbursement of $125 in paid CRT fees. The applicant also claims $255.36 for mailing expenses and staff time spent on the dispute. The mailing expense claim is unsupported by a receipt, so I dismiss it. CRT rule 9.5(5) says compensation for time spent on a dispute is not usually awarded except in extraordinary circumstances. I find no extraordinary circumstances exist here. So, I order no further reimbursement.

ORDERS

22. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of $2,115.95, broken down as follows:

    a. $1,881.87 in debt,

    b. $113.08 in pre-judgment interest under the *Court Order Interest Act*, and

    c. $125 in CRT fees.

23. I dismiss the applicant's remaining claims.

24. The applicant is entitled to post-judgment interest, as applicable.

25. This is a validated decision and order. 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.

Megan Stewart, Tribunal Member