



Civil Resolution Tribunal

Date Issued: March 12, 2024

File: SC-2023-001485

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Out West Windows Glass Home Maintenance Ltd. (dba Glacier Pipe Cleaning & Jetting) v. White*, 2024 BCCRT 251

B E T W E E N :

OUT WEST WINDOWS GLASS HOME MAINTENANCE LTD. (DBA
GLACIER PIPE CLEANING & JETTING)

APPLICANT

A N D :

CHRISTOPHER WHITE and JOANNE WHITE

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about an unpaid invoice and related issues.

2. Christopher White and Joanne White undisputedly hired Out West Windows Glass Home Maintenance Ltd. (dba Glacier Pipe Cleaning and Jetting) (Out West) to complete driveway, drainage, and ditching work on their property.
3. Out West says it invoiced the Whites after receiving a late invoice from one of its subcontractors, but the Whites have refused to pay Out West's invoice. Out West collectively claims \$2,185.93 for its outstanding invoice plus labour costs for its time spent trying to collect the invoice.
4. The Whites dispute Out West's claims. They say they have already paid Out West \$30,000, and they specifically told Out West there was no more money available for the work. They also say they are not responsible for Out West's labour costs to collect on the invoice. The Whites say they owe nothing further.
5. The Whites are self-represented. Out West is represented by its owner.

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. 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 court.

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.

Late evidence

10. Out West provided late evidence after the parties had provided submissions, which consisted of its invoice, its subcontractor's invoice and receipts, and emails between the parties. The Whites were provided with an opportunity to review and provide submissions on this late evidence, so I find there is no actual prejudice in allowing this late evidence. Consistent with the CRT's flexible mandate, I have allowed and considered this late evidence as I find it relevant.
11. In the Whites' response to the late evidence described above, they also provided a previous Out West invoice as late evidence. Out West has not been given the opportunity to review and respond to the above invoice. However, I find it is unnecessary to do so here because ultimately, I find Out West is successful in its claims and so there is no prejudice to Out West.

ISSUE

12. The issue in this dispute is to what extent, if any, the Whites must pay Out West \$2,185.93.

EVIDENCE AND ANALYSIS

13. As the applicant in this civil proceeding, Out West 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.
14. It is undisputed that the Whites hired Out West for driveway drainage, and ditching work on their property. Although the parties all referred to their contract, the contract itself was not provided in evidence. Based on the parties' submissions and evidence,

I infer that Out West completed the work in around October 2022. It is undisputed that the Whites paid some amount for the completed work around that time. The Whites say they only had \$30,000 to spend on the work, and say they paid this amount. Out West does not dispute this.

15. The email evidence shows that in mid-October 2022 the Whites told Out West there was only \$15,000 left for the work, and adjusted the scope of work on that basis. However, later emails also show the Whites approved some further driveway work. So, I find the evidence does not show the parties agreed to \$30,000 as a fixed price for the work.
16. On January 13, 2023, Out West emailed the Whites advising that it had received an invoice from Northwin Contracting Ltd. (Northwin) for crushed and washed rock, and for the “tipping fees” to get rid of materials. Out West provided its January 13, 2023 invoice to the Whites, which totaled \$1,610.18 for the Northwin invoice, Out West’s mark-up fee, and taxes. Out West also provided the October 15, 2022 invoice from Northwin that totaled \$1,264.64. The Whites do not dispute any of the work listed on Northwin’s invoice. They also do not dispute they agreed to pay Out West’s mark-up fee.
17. However, as noted, the Whites say they have already paid \$30,000 for the work, and say the Northwin invoice was included on the invoice they paid. The Whites provided Out West’s November 2022 invoice that includes a \$694.72 Northwin charge, among other things. However, this amount is different than that listed in the Northwin invoice included in Out West’s January 2023 invoice. So, I find this does not show that the Northwin invoice was included in Out West’s November 2022 invoice. There is no other documentary evidence to show that Out West had previously charged the Whites for the Northwin invoice, and so I find this allegation unproven.
18. Out West says the Whites are responsible for all materials used on the job. I agree. I acknowledge the Whites say they have already paid \$30,000 and do not have any further money for the work. However, they do not dispute that they approved the work, and they do not argue that Out West completed any work without their permission.

So, they are still responsible to pay Out West for the work, including Out West's outstanding January 2023 invoice. I find the Whites are responsible to pay Out West \$1,610.18 for its January 13, 2023 invoice.

19. As noted, Out West also claims payment for six hours of time at \$85 per hour for alleged time spent trying to collect on the above invoice. However, Out West did not further detail this aspect of its claim. It did not explain how it arrived at this amount, or say what it did to try to collect on the invoice. So, I find this aspect of its claim unproven.

Interest, CRT fees and expenses

20. Out West claims 30% per year in contractual interest based on the parties' alleged contract. However, none of the parties provided the contract in evidence, so I find it unproven that they agreed to 30% per year contractual interest on Out West's unpaid invoices. I find there is no proven agreement for contractual interest.
21. The *Court Order Interest Act* (COIA) applies to the CRT. In the absence of an agreement about interest, I find the COIA applies. Out West is reasonably entitled to pre-judgment interest on the \$1,610.18 invoice from February 12, 2023, 30 days after Out West provided its invoice to the Whites, to the date of this decision. This equals \$43.80.
22. 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 Out West was successful in its claims, I find it is entitled to reimbursement of \$125 in paid CRT fees. Neither party claimed dispute-related expenses.

ORDERS

23. Within 30 days of the date of this order, I order the Whites to pay Out West a total of \$1,778.98, broken down as follows:

- a. \$1,610.18 in debt,
- b. \$43.80 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$125 in CRT fees.

24. Out West 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.

Leah Volkers, Tribunal Member