



Civil Resolution Tribunal

Date Issued: March 15, 2024

File: SC-2023-003531

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Coppick v. Derouin*, 2024 BCCRT 267

B E T W E E N :

FREDERICK COPPICK

APPLICANT

A N D :

LORRAINE DEROUIN

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This dispute is about payment for hardscaping services.
2. The respondent, Lorraine Derouin, hired the applicant, Frederick Coppick, to install a paver walkway and patio. The applicant prepared an initial estimate of \$15,225 and

the respondent accepted. During the applicant's work, he says the respondent requested changes to the original design and added new projects, but the parties never came to specific terms on price. The applicant's final invoice was for \$20,202, of which the respondent undisputedly paid \$17,612.50.

3. The applicant claims \$2,589.50 for the invoice's unpaid balance.
4. The respondent says all the work the applicant did was part of the original estimate. They also say the applicant was unprofessional, caused damage to their property, did not complete all work to a professional standard, and overcharged. They ask me to dismiss the applicant's claim.
5. The parties are each self-represented.
6. For the reasons that follow, I allow the applicant's claim.

JURISDICTION AND PROCEDURE

7. These are the Civil Resolution Tribunal (CRT)'s formal written reasons. The CRT has jurisdiction over small claims brought under *Civil Resolution Tribunal Act* (CRTA) section 118. 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.
8. CRTA section 39 says the CRT has discretion to decide the hearing's format, 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.
9. 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.

10. 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.

ISSUES

11. The issues in this dispute are:
 - a. Is the applicant entitled to his invoice for hardscaping?
 - b. If so, is the respondent entitled to any set off?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, the applicant must prove his claims on a balance of probabilities. 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.
13. A March 14, 2022 estimate sets out the projects the respondent initially hired the applicant to do. The applicant would install a patio (\$9,900), a 30" wide sidewalk (\$3,300), and build 3 wooden walls (\$1,300). So, after GST, the applicant estimated the total at \$15,225.
14. The respondent paid the applicant a deposit of \$7,612.50, and the applicant began work.
15. As the applicant worked, the parties expanded and changed the project's scope. In his July 7, 2022 invoice, the applicant included the original projects, and detailed the new projects as follows:
 - a. Widen the sidewalk from 30" to 36" – change from \$3,300 to \$3,960;
 - b. Build a garden bed – \$320;
 - c. Raise the height of a garden bed – \$160;
 - d. Purchase and install topsoil – \$750;

- e. Build and install a post, gate, and fence panel – \$750;
 - f. Build stairs with pavers – \$1,200;
 - g. Install a pad, using old pavers – \$600;
 - h. Build a retaining wall near the fence – \$300.
16. With GST, the final total was therefore \$20,202.
17. The respondent agrees that the applicant did the listed work and says they discussed *all* the projects at the parties' first meeting. The respondent says they would not have added later projects without confirming the price. So, I infer the respondent is arguing the initial estimate inherently included all of the additional work detailed in the invoice, even if those projects were not specifically listed.
18. However, I find the March 14 estimate is detailed and clear. It does not discuss any of the additional projects listed in the July 7 invoice. The respondent does not make any argument as to why the estimate would not list the total scope of work. The applicant says the respondent approached him with ideas throughout the project, which he agreed to. He says on other occasions, he gave the respondent suggestions, which they agreed to.
19. Given the projects' varied nature, I do not accept that any of the patio, sidewalk, or wall projects included any of the additional projects from the invoice. In other words, I find the respondent's position is not supported by the evidence.
20. So, I find the applicant did the work the respondent asked and is entitled to be paid for it. I now turn to what he should be paid.

Contractual Quantum Meruit

21. When parties do not agree on a price but agree on the other essential terms of a contract, the unpaid party is entitled to a reasonable amount for the goods and services provided. This concept is known as contractual *quantum meruit*.¹
22. It is undisputed the parties did not agree to prices for each project ahead of time. The applicant says the respondent asked about the price of two of the new projects. Each time, he said it would be “no more than a few hundred dollars.” He billed \$320 and \$160 for those projects, which I find is broadly consistent with his estimate.
23. However, since the applicant completed a number of projects that did not have an estimate, I am unable to rely on any specific contractual term and apply contractual *quantum meruit*.
24. The parties disagree on the reasonable price for the projects. However, the respondent agreed to the applicant’s initial estimate, and there is no evidence his rates for the new projects were markedly different or unreasonable. So, I find the applicant is entitled to the balance of invoice, a total of \$2,589.50.

Deficient Work

25. As noted above, the respondent says the applicant was unprofessional, caused damage to their property, and did not complete all work to a professional standard. Since they did not file a counterclaim, I find the respondent is arguing they are entitled to an equitable set-off.
26. A set off is a right between parties who owe each other money where their respective debts are mutually deducted, leaving the applicant to recover only the remaining balance. When a party alleges a set off, the burden of proving the set off is theirs, including proving what damages arise from the breach.²
27. For the reasons that follow, I find the respondent has not proven any set off.

¹ See: *Gill Tech Framing Ltd. v. Gill*, 2012 BCSC 1913.

² See: *Wilson v. Fotsch*, 2010 BCCA 226 and *Dhothar v. Atwal*, 2009 BCSC 1203.

28. The respondent first says the applicant's truck leaked oil in their driveway, the applicant (or his workers) stained their deck, and dirtied their hot tub cover by leaving their tools on it. However, they do not provide any evidence of those alleged issues, so I find their claims unproven.
29. The respondent also claims the applicant damaged their lawn. They include an email from a neighbour who helped repair the lawn. The applicant says they told the respondent in advance there would be some minor damage as a result of moving equipment and material to complete the project and that he took steps to minimize it. He also says the respondent told him they "didn't care" since the lawn needed to be redone.
30. However, I find I do not need to determine whether or not the applicant damaged the lawn. The respondent did not provide any evidence of costs they incurred to repair the lawn, so they have not proven entitlement to damages in any event.
31. Finally, the respondent says the applicant punctured an irrigation pipe while adding a border to the sidewalk. The respondent says it took their husband 6 hours to find the leak and that they had to pay "J" \$125 to repair it. The applicant acknowledges he may have caused the damage but says "J" repaired it free of charge.
32. It is unclear if J is the applicant's colleague or a 3rd party. However, the respondent did not include any evidence of the alleged payment to J, such as an invoice or receipt. So, I find they have not proven they made any payment to repair the damage.

Interest, CRT Fees, and Expenses

33. The *Court Order Interest Act* applies to the CRT. The applicant is entitled to pre-judgment interest on the balance owing from July 7, 2022 the invoice's date, to the date of this decision. This equals \$170.90.
34. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable

dispute-related expenses. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$125 in CRT fees.

35. The applicant claimed \$440 in dispute-related expenses, which includes \$400 for his time spent on this dispute and \$40 in printing and “support” fees.
36. CRT rule 9.5(5) says the CRT does not award compensation for time spent except in extraordinary circumstances, which I find are not present here. So, I dismiss the applicant’s requests for \$400 for his dispute-related time and effort. I also dismiss the applicant’s request for \$40 in printing and support fees, as he did not provide any supporting evidence, such as invoices or receipts.

ORDERS

37. Within 14 days of the date of this order, I order the respondent to pay the applicant a total of \$2,885.40, broken down as follows:
 - a. \$2,589.50 in debt,
 - b. \$170.90 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$125 in CRT fees.
38. I dismiss the applicant’s claim for dispute-related expenses.
39. The applicant is entitled to post-judgment interest, as applicable.

40. This is a validated decision and order. Under CRTA section 58.1, 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.

Christopher C. Rivers, Tribunal Member