



Civil Resolution Tribunal

Date Issued: March 21, 2024

File: SC-2022-004531

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Rather Be Plumbing Ltd. v. Maka*, 2024 BCCRT 297

BETWEEN:

RATHER BE PLUMBING LTD.

APPLICANT

AND:

CODY MAKA and CODY & COMPANY LTD.

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This dispute is about unpaid plumbing services.

2. In 2021, Rather Be Plumbing Ltd. (RBP) says it was hired by Cody Maka¹ and Cody & Company Ltd. (C&C Ltd.) to provide plumbing services. RBP says it provided services, as agreed, but has not been paid for its invoices.
3. RBP claims \$4,252.96 for plumbing services.
4. While Cody Maka says it was C&C Ltd. who hired RBP, they also say RBP failed to bill for services in a timely manner, overcharged, and damaged their clients' property. C&C Ltd. says it did not receive any unpaid invoices, as RBP sent them to Cody Maka's personal email address instead of a company email. The respondents each ask me to dismiss RBP's claims.
5. C&C Ltd. was struck from the Alberta corporate registry on July 2, 2019. It is not a registered corporation in British Columbia. Despite that, Matthew Maka, a voting shareholder of the struck corporation, filed a response on its behalf. Matthew Maka is also the project manager who communicated with RBP. I address C&C Ltd.'s status below.
6. RBP is represented by its president, Jarod Hughes. Cody Maka is self-represented. As noted above, C&C Ltd. is represented by Matthew Maka.
7. For the reasons that follow, I allow the applicant's claim against Cody Maka and dismiss its claim against C&C Ltd.

JURISDICTION AND PROCEDURE

8. 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

¹ The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure that the CRT respectfully addresses them throughout the process, including in published decisions. Cody Maka and Matthew Maka did not provide their titles or pronouns, so I will refer to them by their full names and with gender neutral pronouns throughout this decision, intending no disrespect.

resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness.

9. 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.
10. 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.
11. 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 Issue – Respondents

12. As noted above, C&C Ltd. was dissolved and struck from the Albertan corporate registry in 2019. A search of the British Columbia corporate registry shows it is not incorporated in this province.
13. When a corporation is dissolved, it ceases to exist.² If a corporation does not exist, it follows that it cannot enter contracts or be a party in a dispute. Since C&C Ltd. did not exist at the relevant time, I find RBP has not proven it is able bring a claim against it. So, I dismiss RBP's claim against C&C Ltd.
14. While Cody Maka says C&C Ltd. hired RBP, I am satisfied RBP was doing business with Cody Maka in their personal capacity. C&C Ltd. did not exist, so it could not hire RBP to provide plumbing services. I find after C&C Ltd. ceased to exist, Cody Maka did business as a sole proprietor under the name "Cody & Company."

² See: *Foster v. Tundra Turbos Inc.*, 2018 BCSC 563, at para. 39.

15. As noted above, Cody Maka argues that RBP failed to invoice them in a timely manner and damaged its clients' property. I find this is an admission that Cody Maka had a business relationship with RBP, including hiring it to provide plumbing services. Further, I note Cody Maka's email address on their Dispute Response is listed as a business contact under RBP's appointment lists for "Cody and Company." I find this further proves Cody Maka was doing business directly with RBP.

ISSUE

16. The issue in this dispute is what, if anything, Cody Maka must pay to RBP for unpaid plumbing services.

EVIDENCE AND ANALYSIS

17. In a civil proceeding like this one, RBP, as applicant, must prove its 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. Despite having the opportunity to do so, Cody Maka did not provide any documentary evidence, and neither Cody Maka nor C&C Ltd. provided any written argument beyond briefly setting out their positions in their Dispute Responses.

18. Other than determining the appropriate respondent, which I addressed above, the facts in this matter are undisputed. RBP provided plumbing services for which it was not paid. It sets out the nature and cost of those services in detailed invoices as follows:

- | | |
|----------------------------------|------------|
| a. July 13, 2021 (#7179283): | \$2,670.61 |
| b. October 1, 2021 (#7889555-1): | \$336.00 |
| c. January 13, 2022 (#10790932): | \$262.50 |
| d. February 3, 2022 (#10386707): | \$782.25 |

TOTAL: \$4,051.36

19. I note this is \$201.60 less than RBP's claimed amount. RBP does not provide a detailed calculation of how it arrived at its claimed total. So, I find RBP has proved it has unpaid invoices totaling \$4,051.36.
20. As noted above, Cody Maka argues RBP did not bill for services in a timely manner, overcharged, and caused damage to their clients' property. I address each in turn.

Timing of Invoices

21. First, RBP says it issued invoices upon completing work. It provided summary sheets that show it emailed the January 13 invoice to Cody Maka on the same day, and the February 3 invoice on March 11.
22. None of RBP's summary sheets show it emailed the July 13, 2021 invoice or the October 1, 2021 invoice. While RBP says it emailed the invoices to Cody Maka, it did not provide copies of those emails.
23. However, on November 30, 2022, RBP emailed those 2 invoices to Cody Maka, so I find they received them at that point.
24. Cody Maka does not clearly explain why any alleged delay should relieve them from paying the invoice. However, an email in evidence from a third party, TE, said they were "not interested in paying" due to RBP's "poor management" in providing the invoice "2 years late" and that the project was "closed and the final invoice paid."
25. The third party's apparent unwillingness to pay is an issue between Cody Maka and the third party. It is not a defence to Cody Maka's obligations to pay RBP for its work.

Equitable Set-Off: Overcharging and Damage to Property

26. Next, Cody Maka says RBP overcharged them and damaged their clients' property. Cody Maka did not file a counterclaim, so I infer they are asking for an equitable set off.

27. 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. This includes proving the amount of damages the party says they suffered.³
28. In emails, Matthew Maka identified themselves as project manager for “Cody & Company”. Since “Cody & Company” is the name under which Cody Maka did business, I find this means Matthew Maka acted as project manager for Cody Maka.
29. A November 23, 2022 email from Matthew Maka to RBP shows disagreement over the “Waterfront Cres” bill. However, the email does not include any information about what the alleged correct price should be. It also raises a disagreement over the “Pandora” bill, and raises a warranty issue, and again, does not provide any information about price. I find neither email proves Cody Maka is entitled to a set off.
30. There is no evidence showing RBP damaged any property. While various emails from Matthew Maka and TE contain bare allegations RBP’s work was deficient, the allegations are not supported by any further evidence, like photographs or expert opinion.
31. So, I find Cody Maka has not established they are entitled to any set off from RBP’s unpaid invoices. I allow RBP’s claim for \$4,051.36.

Interest, CRT Fees, and Expenses

32. RBP claims 10% interest after 30 days, as stated on its invoice. However, interest cannot be unilaterally imposed in an invoice. There is no evidence Cody Maka agreed to pay any interest. So, I find RBP is not entitled to contractual interest.
33. In the absence of an agreement about contractual interest, the *Court Order Interest Act* applies to the CRT. RBP is entitled to pre-judgment interest on its invoices from the dates it provided them to Cody Maka to the date of this decision. This equals

³ See: *Wilson v. Fotsch*, 2010 BCCA 226 and *Dhothar v. Atwal*, 2009 BCSC 1203

\$180.55 for the July 13 and October 1 invoices, \$17.58 for the January 13 invoice, and \$52.60 for the February 3 invoice. This totals \$250.73.

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 RBP was substantially successful and is entitled to reimbursement of \$175 in CRT fees. The applicant did not claim any dispute-related expenses.

ORDERS

35. Within 14 days of the date of this order, I order Cody Maka to pay RBP a total of \$4,477.09, broken down as follows:
- a. \$4,051.36 in debt,
 - b. \$250.73 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$175 in CRT fees.
36. RBP is entitled to post-judgment interest, as applicable.
37. I dismiss RBP's remaining claims.
38. 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