



Civil Resolution Tribunal

Date Issued: May 27, 2024

Files: SC-2023-001941
and SC-CC-2023-010836

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Haddock v. Mesgara*, 2024 BCCRT 476

BETWEEN:

GRANT HADDOCK

APPLICANT

AND:

MASHAALLAH MESGARA

RESPONDENT

AND:

GRANT HADDOCK

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. These disputes are about payment for legal services. This decision relates to two linked disputes, SC-2023-001941 and SC-CC-2023-010836, that I find are a claim and a counterclaim involving the same parties and related issues. So, I have issued one decision for both disputes.
2. Grant Haddock is a lawyer doing business as Haddock & Company, Lawyers. In this decision I sometimes refer to Mr. Haddock and his law firm's lawyers together as "Haddock". In November 2021, Mashaallah Mesgara retained Haddock for legal services and paid a \$1,500 retainer.
3. After accounting for the retainer, Mr. Haddock claims \$2,308.98 for unpaid legal fees, taxes, and disbursements, plus 24% yearly contractual interest.
4. Mr. Mesgara denies that they owe Mr. Haddock anything. They say Haddock did not provide a valuable service and overcharged them. Mr. Mesgara counterclaims \$755 as a refund for what they say Mr. Haddock overcharged them, plus 24% yearly contractual interest.
5. Both parties are self-represented.

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. In resolving disputes, the CRT must apply principles of law and fairness.
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. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
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.
10. I was initially unable to open 6 pieces of Mr. Haddock's evidence. Mr. Haddock resubmitted this evidence, along with 4 other new pieces of evidence, and Mr. Mesgara had the opportunity to respond to it. Since I find there is no prejudice, and given the CRT's mandate to be flexible, I have considered Mr. Haddock's resubmitted and new evidence in this decision.

ISSUES

11. The issues in this dispute are:
 - a. Is Mr. Haddock entitled to \$2,308.98 in legal fees?
 - b. Is Mr. Mesgara entitled to a refund of \$755?

EVIDENCE AND ANALYSIS

12. As the applicant in this civil proceeding, Mr. Haddock must prove his claims on a balance of probabilities, which means more likely than not. Likewise, Mr. Mesgara must prove their counterclaim to the same standard. I have read all the parties' evidence and submissions but refer only to what I find relevant to explain my decision.
13. On November 18, 2021, Mr. Mesgara signed a retainer agreement with Haddock for Ripan Hans, one of Haddock's lawyers, to assist them with an upcoming Residential

Tenancy Branch (RTB) hearing. The next day, Mr. Mesgara paid Haddock the \$1,500 retainer. Between November 19 and December 17, 2021, Haddock performed various legal services for Mr. Mesgara. It is the quality and quantity of these legal services that are at issue in this dispute. On December 17, 2021, Mr. Mesgara told Haddock to stop working on their legal issue.

14. On December 13, 2021, Haddock invoiced Mr. Mesgara \$1,020.18 for legal services it provided between November 19 and 25, 2021 (first invoice). This invoice was paid from the \$1,500 retainer, leaving a retainer balance of \$479.82. On January 24, 2022, Haddock invoiced Mr. Mesgara \$2,788.80 for legal services it provided between December 2 and 17, 2021 (second invoice). Haddock applied the remaining \$479.82 of the retainer to this invoice, leaving a balance of \$2,308.98 owing on the second invoice. This is the amount Mr. Haddock claims in this dispute.

Is Mr. Haddock entitled to \$2,308.98 in legal fees?

15. Mr. Mesgara argues many reasons why they say they do not owe Mr. Haddock the amount claimed. Mr. Haddock correctly argues that Mr. Mesgara's opportunity to review Haddock's bill under the *Legal Profession Act* (LPA) has expired. However, a client's right to challenge a lawyer's account is not limited to an LPA review. So, I find Mr. Mesgara can still raise any concerns about Haddock's account as a defence to Mr. Haddock's civil claim for payment. I address each of Mr. Mesgara's concerns in turn.
16. First, Mr. Mesgara says Ms. Hans initially told them they had a "strong chance of success" at their RTB hearing. Mr. Mesgara says Ms. Hans later told them they had a 50% chance of success, and eventually told them they had only a slim chance of success. I take from this that Mr. Mesgara alleges Ms. Hans misrepresented their chance of success. For the following reasons, I disagree.
17. Mr. Haddock says Ms. Hans' first assessment of Mr. Mesgara's legal position was based only on what Mr. Mesgara told her, without her having reviewed their documents. Mr. Haddock says that after reviewing Mr. Mesgara's documents and

learning more about their legal issue, Ms. Hans revised her view of Mr. Mesgara's legal position. Mr. Haddock refers to a clause in the retainer agreement stating that there is no guarantee of any outcome, and Mr. Haddock denies that Ms. Hans ever guaranteed success or any particular outcome to Mr. Mesgara.

18. I find Mr. Haddock's position is supported by the evidence, particularly the emails between Ms. Hans and Mr. Mesgara. I find there is no evidence that Ms. Hans ever promised Mr. Mesgara a certain outcome or misrepresented their chances of success, and I find it was reasonable for her to revise her opinion about Mr. Mesgara's legal position after reviewing their documents and as she received new information from Mr. Mesgara.
19. Next, Mr. Mesgara disputes Haddock's charge for Ms. Hans' 1-hour phone call to the RTB information line on November 19, 2021. Mr. Mesgara says Ms. Hans called this line to gather general legal information that she should have already known. Mr. Mesgara also says Ms. Hans was on hold for much of the call, and she should not have charged them for that time.
20. Mr. Haddock says Mr. Mesgara instructed Ms. Hans to contact the RTB on their behalf to clarify a review order and instructions, because the arbitrator's wording in the order was unclear. Mr. Haddock also says the RTB information line has significant delays, and Haddock was entitled to bill for all of Ms. Hans' time on the call. I find Mr. Haddock's position is supported by a November 19, 2021 email in evidence that Ms. Hans sent to the RTB authorizing her to represent Mr. Mesgara in their RTB dispute, and in later emails between the parties.
21. Mr. Mesgara says it is not possible that Ms. Hans could have emailed the RTB then spoken with them on the same day, because the RTB takes several days to respond to emails. Mr. Mesgara also says they called the RTB on November 22 and 26, 2021, and the RTB denied that anyone had called acting as their lawyer. However, Mr. Mesgara did not provide a statement from anyone at the RTB, or any other evidence to support these assertions, so I find them unproven. The retainer agreement clearly states that Haddock would charge Mr. Mesgara for a lawyer's time spent working on

their file. I find it was reasonable for Haddock to charge Mr. Mesgara for the duration of Ms. Hans' call to the RTB, including any time she may have been on hold.

22. Mr. Mesgara also disputes Haddock's charge for 1.4 hours for Ms. Hans' time spent drafting written submissions for the RTB hearing. Mr. Mesgara says Ms. Hans never sent them these submissions, but the evidence shows Ms. Hans emailed Mr. Mesgara these draft submissions on December 20, 2021. Given that the submissions are 6 pages long, I find Ms. Hans' time spent on this task does not appear to be unreasonable.
23. Mr. Mesgara also says Haddock charged them for Ms. Hans' time spent reviewing and preparing evidence that was irrelevant to their RTB hearing. However, I find Mr. Mesgara has failed to establish on the evidence before me that any of this work was irrelevant.
24. Mr. Mesgara also says Haddock charged them 1.7 hours for their first meeting that lasted only 55 minutes and charged them 1 hour and 10 minutes for their second meeting that lasted only 25 minutes. Mr. Haddock says the amounts charged were for Ms. Hans' time preparing for and attending the meetings, which I find reasonable in the circumstances.
25. Mr. Mesgara also says Haddock charged them for a title search even though they provided a title search with the documents they gave to Ms. Hans. Mr. Haddock says there was no title search included with Mr. Mesgara's documents, and even if there was, due diligence requires lawyers to conduct their own searches. Mr. Mesgara did not submit as evidence in this dispute the documents they submitted to Ms. Hans, so I cannot determine whether a title search was included. Even if it was, I agree with Mr. Haddock that it was prudent for Ms. Hans to conduct her own search.
26. Mr. Mesgara also says Ms. Hans spent a lot of time asking them questions, the answers to which were already in the documents they gave her. However, as noted above, Mr. Mesgara did not submit as evidence in this dispute the documents they

gave Ms. Hans, so I find this allegation unproven. I also find it is reasonable for a lawyer to ask their client questions to better understand their legal issue.

27. Mr. Mesgara says Haddock charged them for multiples reviews of their file on December 2, 8, and 9, when Ms. Hans should have reviewed their file as soon as she started working on it in November and not needed to review it again. However, the emails in evidence show that Mr. Mesgara was providing Ms. Hans new information during this time, and I find it was reasonable for Ms. Hans to review Mr. Mesgara's file on several different dates.
28. Mr. Mesgara also says that Haddock never gave them any legal advice. However, I find the evidence clearly shows that Ms. Hans gave Mr. Mesgara legal advice in various emails throughout their correspondence. On December 16, 2021 Ms. Hans emailed Mr. Mesgara her legal opinion about their position for the RTB hearing. On December 20, 2021, after Mr. Mesgara had instructed Haddock to stop working on their file, Ms. Hans emailed Mr. Mesgara all of her work product up to December 17, 2021. This included draft written submissions for the RTB hearing, and several pages of recommendations for finalizing the submissions, preparing evidence, and serving the evidence on the opposing party. I find this all constitutes legal advice.
29. Finally, Mr. Mesgara says that none of the work Haddock completed on their file was helpful for their RTB hearing. They say that a week before the hearing they consulted with a pro bono lawyer for 10 minutes who told them they did not have to do anything to prepare for the RTB hearing. Mr. Mesgara says they were successful at the hearing based on the pro bono advice they received. However, Mr. Mesgara did not provide evidence of the outcome of the RTB hearing, or any other evidence to sufficiently determine the utility of Haddock's work product.
30. In summary, I find Mr. Mesgara has failed to establish any reason they are not required to pay the outstanding balance on Haddock's second invoice. So, I find Mr. Mesgara must pay Mr. Haddock the \$2,308.98 claimed, subject to any set off from Mr. Mesgara's counterclaim. I address Mr. Haddock's contractual interest claim below.

Is Mr. Mesgara entitled to a refund of \$755?

31. Mr. Mesgara says Haddock overcharged them for its legal services, and Mr. Haddock owes them a \$755 refund. They say that although Haddock charged them for 11.5 hours of legal services, they calculate that Haddock actually spent only 2 hours and 48 minutes providing legal services, which at \$300 per hour equals \$745. Mr. Mesgara deducted \$745 from the \$1,500 retainer, to arrive as their \$755 counterclaim amount. Mr. Mesgara also claims 24% annual contractual interest on this amount.
32. Mr. Haddock denies Ms. Mesgara's allegations, and says Haddock delivered legal services to Mr. Mesgara in a professional manner and to a reasonable industry standard. Mr. Haddock refers to clauses in the retainer agreement that legal fees cannot be precisely predicted, with no set limits, and that Mr. Mesgara would be billed for any document review, preparation, and lawyer's time. Mr. Haddock says his firm worked on Ms. Mesgara's file based on Mr. Mesgara's instructions, and Mr. Mesgara was notified of the accruing costs with regular billing. Mr. Haddock says Mr. Mesgara needs expert evidence to prove his firm overcharged them, which they did not provide.
33. I agree with Mr. Haddock. I have already addressed most of Mr. Mesgara's concerns with Haddock's billing above. I turn to Mr. Mesgara's calculations of the time Ms. Hans spent working on their file. I find these calculations are problematic for several reasons. I have already found that Mr. Mesgara's calculation of Ms. Hans' time spent in their meetings failed to account for her time preparing for those meetings. Similarly, I find Mr. Mesgara's calculation of the 25 minutes Ms. Hans spent on phone calls with them does not account for her time preparing for those calls.
34. Mr. Mesgara calculated that Ms. Hans spent 8 minutes exchanging text messages with them, and 17 minutes emailing with them, but I find this to be an arbitrary calculation that is unsupported by the evidence. I find that based on the length and content of the emails in evidence, Ms. Hans reasonably spent much longer than 17 minutes emailing with Mr. Mesgara. Similarly, Mr. Mesgara calculated that Ms. Hans spent 35 minutes reviewing their file, with no explanation provided. Again, based on

the evidence before me, I find Ms. Hans reasonably spent much longer than 35 minutes reviewing Mr. Mesgara's file.

35. I also find Mr. Mesgara's calculations fail to account for work that the evidence shows Ms. Hans completed. For example, above I found it was reasonable for Haddock to charge Mr. Mesgara for Ms. Hans' 1-hour phone call with the RTB information line. This phone call is not included in Mr. Mesgara's calculations. I also find Ms. Hans clearly spent time drafting the 6 pages of written submissions for the RTB hearing, which time is not accounted for in Mr. Mesgara's calculations. I also find Haddock reasonably charged Mr. Mesgara for a title search, which is not in Mr. Mesgara's calculations. Mr. Mesgara's calculations also do not include any taxes, which must be charged on legal services.
36. Overall, I find Mr. Mesgara has failed to provide sufficient evidence that Haddock overcharged them for the legal services it provided. I dismiss Mr. Mesgara's counterclaim.
37. Mr. Haddock claims 24% yearly contractual interest, compounded annually, on the \$2,308.98 owing. I find this interest rate is set out in the retainer agreement, which says contractual interest will be charged on accounts not paid within 30 days. So, I find contractual interest started to accrue on February 24, 2022, which is 30 days after the second invoice's date. This totals \$1,460.15.
38. 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. I see no reason in this case not to follow that general rule. Since Mr. Haddock was successful, I find he is entitled to reimbursement of \$125 in CRT fees. Since Mr. Mesgara was unsuccessful with their counterclaim, I dismiss their claim for reimbursement of CRT fees. Neither party claimed any dispute-related expenses.

ORDERS

39. Within 30 days of the date of this order, I order Mr. Mesgara to pay Mr. Haddock a total of \$3,894.13, broken down as follows:

- a. \$2,308.98 as payment of the invoice,
- b. \$1,460.15 in 24% yearly contractual interest, and
- c. \$125 in CRT fees.

40. Mr. Haddock is entitled to post-judgment interest, as applicable.

41. I dismiss Mr. Mesgara's counterclaim.

42. 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.

Sarah Orr, Tribunal Member