



# Civil Resolution Tribunal

Date Issued: January 9, 2025

File: SC-2023-001798

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Penny v. Larscheid*, 2025 BCCRT 25

**B E T W E E N :**

LESLIE WAYNE PENNY

**APPLICANT**

**A N D :**

MICHAEL LARSCHEID

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Eric Regehr, Vice Chair

### **INTRODUCTION**

1. Michael Larscheid hired Leslie Wayne Penny to fix an outboard motor. Mr. Penny says that Mr. Larscheid never paid his bill in full. He asks for \$735 in parts and labour. He is self-represented.

2. Mr. Larscheid says the parties agreed he would pay in cash and beer, and that he did so. He also says he returned the motor to Mr. Penny. So, he says he owes nothing.
3. The parties are each self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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 says 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.
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. Mr. Larscheid asked for an oral hearing. In some respects, both parties of this dispute question the credibility, or truthfulness, of the other. However, I note the decision *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, the monetary stakes are low. I find that it would be disproportionate to hold an oral hearing to decide the credibility issue before me. I find that I can properly resolve this dispute on the documentary materials before me.
6. CRTA section 42 says the CRT may accept as evidence any 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 pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.

8. In the Dispute Notice, Mr. Penny spelled Mr. Larscheid's first name "Micheal". On the evidence before me, it is clear that Mr. Larscheid's first name is "Michael", and I have amended the style of cause accordingly under CRTA section 61.

## **ISSUES**

9. The issues in this dispute are:
  - a. Did the parties have an agreement about how much the boat repair would cost?
  - b. Does Mr. Larscheid owe Mr. Penny anything more?

## **EVIDENCE AND ANALYSIS**

10. In a civil claim such as this, Mr. Penny as the applicant must prove his claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. Mr. Larscheid's son owned a boat with an outboard motor. When it stopped working, Mr. Larscheid approached Mr. Penny to fix it. The exact date is unclear, but it was sometime in spring 2020. Mr. Penny says he paid for the parts and installed them on June 5 and 6, 2020. He then sent Mr. Larscheid a bill, which he did not pay. Again, the exact date of the bill is not clear and it is not in evidence. Mr. Larscheid did not initially pick up the motor.
12. Mr. Penny says that Mr. Larscheid reached out to ask for the motor for Thanksgiving weekend in 2020. He says Mr. Larscheid agreed to pay when he got back, so Mr. Penny gave him the motor. However, Mr. Penny says that Mr. Larscheid again did not pay.
13. Mr. Penny says that Mr. Larscheid made a partial payment in January 2021 by putting a Ziploc bag full of loonies, quarters, dimes, and nickels worth \$140 in his

mailbox. Mr. Larscheid denies giving him anything but loonies, but admits to paying him \$140, which he says is all he owed. Mr. Larscheid included a note that the \$140 was \$40 for parts and \$100 for labour, and that the “bill” Mr. Penny had given him was not legitimate. After Mr. Penny started this CRT dispute, Mr. Larscheid dropped the motor at Mr. Penny’s home.

14. The parties did not have a written contract. Oral contracts are binding just like written ones, but it can be harder to prove what the parties agreed to. Mr. Penny does not say that they discussed the cost before he agreed to fix the motor. Mr. Larscheid says that they agreed he would pay Mr. Penny in cash and beer, but does not say how much cash or how much beer. He provided a statement from a witness who also said the agreement was for cash and beer, but the witness also does not say how much of either. Mr. Larscheid says that the parties did not discuss an hourly rate.
15. Ultimately, I find that there is no persuasive evidence to convince me that the parties agreed to the cost of Mr. Penny’s motor repair in advance. When parties have a contract but they did not agree on the price, the party who does the work is still entitled to be paid a reasonable amount for the work they did. This concept is called “contractual *quantum meruit*”.<sup>1</sup>
16. The first question is the value of the parts Mr. Penny used. Mr. Penny provided an invoice from a marine store showing he bought parts for a total of around \$45 from two different suppliers. He says he used a water pump he already had. He says he makes money by fixing up old motors and so has a large inventory of used parts. He says the water pump was worth \$160. He also claims shop materials of \$30. So, he says his total cost for parts was \$245, although these amounts add up to only \$235. Mr. Larscheid says that the invoices could have been for a different motor, and says that \$160 for a used water pump is far too high. Neither provided any evidence to prove how much a water pump is worth, new or used. Given that Mr.

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<sup>1</sup> *Gill Tech Framing Ltd. V. Gill*, 2012 BCSC 1913.

Penny bears the burden of proof, and in the absence of any clear evidence, I find that he is entitled to \$100 for parts.

17. As for labour, Mr. Penny claims \$500. It is unclear from the evidence whether that includes the \$140 payment. Since that payment occurred before Mr. Penny started this dispute, I find that he accounted for it in the amount claimed. Mr. Penny says that he regularly sells used motors for \$1,200, and the motor at issue was not functioning when Mr. Larscheid dropped it off. So, Mr. Penny's work had value. The only evidence of how much time Mr. Penny spent on the job is his assertion that he completed the work over two days. In the absence of anything clearer, I find that \$500 is fair value for his labour.
18. This means that after the partial payment, Mr. Larscheid owed Mr. Penny \$460 for parts and labour. Given Mr. Penny's evidence that he sells motors for \$1,200, and since he accepted delivery of the motor after Mr. Larscheid refused to pay, I find that he is not entitled to any further payment. This is because I find the value of the motor likely exceeds the \$460 Mr. Larscheid owed him.
19. This is enough reason for me to dismiss Mr. Penny's claim, but I note that I likely would have dismissed it in any event. This is because the *Limitation Act* generally requires people to start a legal proceeding no more than two years after their claim arises. This is called a limitation period. The limitation period restarts if there is a partial payment, but Mr. Penny started this dispute in February 2023, more than two years after Mr. Larscheid's partial payment in January 2021.
20. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Mr. Larscheid paid \$50 in CRT fees but since he did not return the motor until after Mr. Penny started this CRT dispute, I decline to order Mr. Penny to reimburse these fees. Mr. Penny was unsuccessful, so I dismiss his claim for CRT fees as well. Neither party claimed any dispute-related expenses.

**ORDER**

21. I dismiss the parties' claims.

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Eric Regehr, Vice Chair