



# Civil Resolution Tribunal

Date Issued: September 30, 2019

File: SC-2019-002149

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Thompson v. Sather*, 2019 BCCRT 1145

B E T W E E N :

CODY THOMPSON

**APPLICANT**

A N D :

DANIEL SATHER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Lynn Scrivener

## INTRODUCTION

1. This dispute is about payment for electrical services. The applicant, CODY THOMPSON, says that the respondent, DANIEL SATHER, has not paid all of the invoices relating to electrical work he did on the respondent's home. The applicant seeks an order that the respondent pay him the outstanding amount of \$2,927.00.

The respondent says that the applicant overcharged him for labour and materials, and denies that he owes the applicant any more money.

2. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

3. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
5. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
6. Under tribunal rule 9.3(2), in resolving this dispute the tribunal may make one or more of the following orders, where permitted under section 118 of the CRTA:
  - a. order a party to do or stop doing something;
  - b. order a party to pay money;
  - c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUE**

7. The issue in this dispute is whether the respondent owes the applicant \$2,927.00 from 2 outstanding invoices for electrical work.

## **EVIDENCE AND ANALYSIS**

8. In a civil dispute such as this, an applicant bears the burden of proof on a balance of probabilities. The parties provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only that which is necessary to provide context to my decision.
9. The respondent made an agreement with the applicant to provide electrical services on a home renovation project. The applicant started work on the project in September of 2018 and rendered several invoices to the respondent. The respondent paid a number of these invoices, but noted that the applicant had overcharged him on some invoices. Once alerted to the error, the applicant apologized and revised the invoices. According to a December 6, 2018 email message, the applicant also deducted an additional 12 hours of labour as an apology.
10. The respondent says an employee of the applicant damaged his generator and battery bank, with the result that he had no power to his home. The respondent states that the applicant refused to rectify the issue until the invoices that were outstanding at that time were paid. Although the respondent says he had residual concerns about the accuracy of the revised invoices, he paid them so that he could have power restored to his home.
11. The applicant continued to work on the renovation project. In January of 2019, the applicant provided the respondent with estimates for different scopes of work for the remainder of the project. The applicant issued a January 17, 2019 invoice for \$733.83 and a January 28, 2019 invoice for \$2,194.03. The respondent did not pay

these invoices and, in February of 2019, advised the applicant that he would not be paying them.

12. The applicant says that his agreement with the respondent was for time and materials. He says that he had difficulty getting paid, and that the respondent agreed to pay him for materials up front, but failed to do so. According to the applicant, the project was complicated as it involved tying an off-grid electrical system into the grid. He states that “things had to be re-calculated” when the respondent made changes to the planned project. The applicant provided the receipts for the material he used on the project, and says that he had no reason to purchase these items for anything other than the respondent’s job. He states that he worked the hours invoiced. He notes that the electrical inspection report is marked “complete” in support of his position that the work had been completed as invoiced.
13. The respondent did not make a counterclaim for the losses he says he suffered as a result of the damage to the generator and battery bank. Instead, he states that he should not have to pay the applicant any more money. The respondent says he has already paid double what the job should have cost and accuses the applicant of being dishonest with his billings. The respondent questions whether the materials invoiced by the applicant were actually installed in his home. He says that the passed inspection confirms that work was done to code, but not that the job was done within a time frame that is fair. The respondent wonders how it could take a professional journeyman 133 hours to perform the work listed on the invoices. He provided statements from his spouse, his general contractor, and his lead carpenter to the effect that the applicant did not spend more than 66 to 68 hours working on the jobsite. The respondent says that, when compared with the amount of hours billed by the applicant, there is a discrepancy of 50.5 hours.
14. There is no dispute that the applicant performed some work for the respondent, or that the respondent has not paid all of the invoices produced by the applicant. Although not stated explicitly, I infer that the respondent’s position is that the amount that he overpaid the applicant on previous invoices amounts to a debt that

the applicant owes him, and that this amount should be deducted from the outstanding invoices. The burden is on the respondent to prove that he is entitled to an equitable set-off.

15. Although the applicant provided the respondent with written quotes, their agreement appears to be verbal in nature and did not specify a maximum number of hours. The key issue is whether the respondent has established that the applicant overcharged for work he performed.
16. As noted above, the respondent's evidence is that the applicant only worked 66 to 68 hours on the project. The applicant questions how the individuals who provided statements kept track of his hours, and says that the respondent and his spouse were rarely at the home, he almost never saw the general contractor and never met the lead carpenter. The spouse and the lead carpenter say that they were present at the home during the project, but they do not state how they supervised or documented the applicant's work such that they could come to their conclusions about his hours worked. While the general contractor stated that the applicant's work was "slow and inefficient", he did not offer an opinion as to the number of hours he would have anticipated to be involved with a particular scope of work.
17. The evidence before me does not include a statement from an electrician or other professional to comment on the expected time frame for the work performed by the applicant, or the applicant's assertion that the job was more complex than average. Similarly, the evidence does not include an opinion from an electrician or other professional that comments on the expected materials that would be involved in the scope of work performed by the applicant.
18. I acknowledge the respondent's belief that the applicant overcharged him for materials and hours of labour. However, I find that he has not met the evidentiary burden of establishing that the applicant billed him for excessive hours or for materials that were not used on the project. As an equitable set-off has not been established, I find that the respondent is responsible for the invoices produced by

the applicant and supported by documentation of his hours and receipts for materials purchased for the project.

19. The 2 outstanding invoices total \$2,927.86, but the applicant's claim is for \$2,927.00. I find that he is entitled to that amount.
20. The *Court Order Interest Act* applies to the tribunal. The applicant is entitled to pre-judgment interest on the invoice amount from January 31, 2019 (being the date of the applicant's first demand for payment) to the date of this decision. This equals \$38.00.
21. Under section 49 of the CRTA and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal 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 \$125.00 in tribunal fees.

## **ORDERS**

22. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$3,090.00, broken down as follows:
  - a. \$2,927.00 as payment of the outstanding invoices,
  - b. \$38.00 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125.00 in tribunal fees.
23. The applicant is entitled to post-judgment interest, as applicable.
24. Under section 48 of the CRTA, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.

25. Under section 58.1 of the CRTA, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Lynn Scrivener, Tribunal Member