



Civil Resolution Tribunal

Date Issued: February 21, 2024

File: SC-2022-009319

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sorensen (dba GPS Network Consulting) v. Control Alt Delete Managed IT Services Inc.*, 2024 BCCRT 161

B E T W E E N :

GREGORY SORENSEN (Doing Business As GPS Network Consulting)

APPLICANT

A N D :

CONTROL ALT DELETE MANAGED IT SERVICES INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Christopher C. Rivers

INTRODUCTION

1. This dispute is about unpaid invoices for IT services.

2. Gregory Sorensen (dba GPS Network Consulting) says Control Alt Delete Managed IT Services Inc. (CAD) contracted him to provide IT services. Mr. Sorensen says he provided services as required, but CAD has not paid, or only partially paid, 4 of his invoices. He initially claimed \$3,600.52 in debt for unpaid invoices, but in his submissions, he revises his claim to \$3,447.56.
3. CAD says in one instance, Mr. Sorensen did not deliver the promised end result. In another instance, CAD says Mr. Sorensen significantly overcharged CAD for his work. It asks me to dismiss Mr. Sorensen's claim.
4. Mr. Sorensen is self-represented. The respondent is represented by its president and secretary, James Dunnigan.
5. For the reasons that follow, I allow Mr. Sorensen's claim.

JURISDICTION AND PROCEDURE

6. These are the Civil Resolution Tribunal's (CRT) 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.
7. 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. Some of the evidence in this dispute amounts to a "he said, it said" scenario. The credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. 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. I also note

that in *Yas v. Pope*, 2018 BCSC 282, at paragraphs 32 to 38, the British Columbia Supreme Court recognized the CRT's process and found that oral hearings are not necessarily required where credibility is an issue.

8. 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 a court of law.
9. 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

10. The issue in this dispute is whether Mr. Sorensen is entitled to be paid for 4 invoices he issued to CAD for subcontracted work.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, Mr. Sorensen, as applicant, must prove his claims on a balance of probabilities. This means "more likely than not". 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. While it provided a Dispute Response setting out its basic position, CAD did not provide any documentary evidence or additional written submissions in this proceeding, despite having the opportunity to do so.
12. Mr. Sorensen and CAD both provide IT services.
13. Mr. Sorensen says he and CAD have subcontracted with each other many times in the past, each drawing on the other's expertise and availability as needed. In support, Mr. Sorensen provided an historical account summary, showing over 25 previous invoices he issued to CAD from July 2014 to September 2020, all fully paid.

14. From November 2021 to January 2022, Mr. Sorensen says that he provided services consistent with the parties' previous arrangements. Mr. Sorensen does not allege the parties had any written contract setting out what work CAD subcontracted him to provide. That said, he issued 4 invoices (2676, 2682, 2688, and 2685) during that period that clearly set out what work he did, where he did it, and how many hours he spent.
15. In its Dispute Response, CAD does not deny that it hired Mr. Sorensen, saying only that on some occasions, his work was overcharged or jeopardized CAD's relationship with its client. It is also undisputed CAD made a \$2,000 payment towards invoice 2676 on February 27, 2022 and a \$3,000 payment towards invoice 2688 on May 18, 2022. Together, I find this proves CAD subcontracted with Mr. Sorensen to provide IT services.
16. While I find the parties had an agreement, I still must determine if Mr. Sorensen is entitled to the amount he claims in the invoices.
17. I summarize the invoices' relevant details as follows:

| Invoice No. | Issue Date | Due Date | Invoice Amount | Amount Paid | Balance Owing |
|-----------------------------|-------------------|-----------------|-----------------------|--------------------|----------------------|
| 2676 | Nov. 30, 2021 | Dec. 30, 2021 | \$2,490.23 | \$2,000.00 | \$490.23 |
| 2682 | Dec. 16, 2021 | Jan. 15, 2022 | \$1,209.60 | \$0.00 | \$1,209.60 |
| 2688 | Jan. 12, 2022 | Feb. 11, 2022 | \$3,638.25 | \$3,000.00 | \$638.25 |
| 2685 | Jan. 18, 2022 | Feb. 17, 2022 | \$1,262.44 | \$0.00 | \$1,262.44 |
| Total Balance Owing: | | | | | \$3,600.52 |

18. Where there is no written contract, the party trying to prove that a contract exists must prove that the parties agreed on the contract's essential terms. Whether there is an

enforceable contract involves an objective test based on what a reasonable person in the parties' situation would have believed and understood, rather than the parties' subjective beliefs.¹

19. Here, I infer Mr. Sorensen is relying on the parties' historical dealings to establish his entitlement to his invoices. Generally, where parties have a history of dealings but do not have a written contract, a contract's terms can be implied by the parties' past conduct.²
20. It is undisputed CAD routinely subcontracted Mr. Sorensen to provide IT services. It is also undisputed CAD paid every one of Mr. Sorensen's invoices prior to November 2021. So, I find the parties' agreement included terms that CAD would pay Mr. Sorensen's reasonable invoices for IT services.
21. To the extent CAD argues Mr. Sorensen's invoices were unreasonable, I note again it did not provide any submissions to support its position. However, April 2022 text messages between Mr. Sorensen and CAD's president, James Dunnigan, provide additional context. When Mr. Sorensen asked to be paid, James Dunnigan responded by complaining about a lack of reciprocation for referrals and a need to "write off" work for a client. None of this shows Mr. Sorensen's invoices were unreasonable.
22. Further, James Dunnigan also writes "I can give you the whole amount today but it will need to be cash." While addressing the amount of profit Mr. Sorensen was seeking for his work, James Dunnigan writes "...I agreed to it so I have to deal with it."
23. Given the parties' historical dealings, James Dunnigan's acknowledgement of debt to Mr. Sorensen, and the lack of evidence establishing the invoices as unreasonable, I find Mr. Sorensen is entitled to the claimed amount. As noted above, Mr. Sorensen reduced his claim to \$3,447.56. He says this is for a credit memo of \$152.96 he owes to CAD. Mr. Sorensen does not say what invoice the credit memo applies to or when

¹ See: *Berthin v. Berthin*, 2016 BCCA 104.

² See: *Hardwoods Speciality Products LP Inc. v. Rite Style Manufacturing Ltd. et al*, 2015 BCSC 1100.

it was issued. When calculating pre-judgement interest below, I have applied it to invoice 2676 as a payment made prior to the due date.

24. I find Mr. Sorensen is entitled to his claim of \$3,447.56.

25. The *Court Order Interest Act* applies to the CRT. Mr. Sorensen is entitled to pre-judgment interest on each invoice's unpaid debt from their respective due dates. This totals \$223.63, broken down as follows:

| Invoice | Interest |
|---------------|-----------------|
| 2676 | \$22.01 |
| 2682 | \$78.69 |
| 2688 | \$41.31 |
| 2685 | \$81.62 |
| Total: | \$223.63 |

26. 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. I see no reason in this case not to follow that general rule. I find Mr. Sorensen is entitled to reimbursement of \$175 in CRT fees, and I dismiss CAD's claim for CRT fees. Mr. Sorensen did not claim any dispute-related expenses.

ORDERS

27. Within 14 days of the date of this order, I order CAD to pay Mr. Sorensen a total of \$3,846.19, broken down as follows:

- a. \$3,447.56 in debt,

- b. \$223.63 in pre-judgment interest under the *Court Order Interest Act*, and
- c. \$175 in CRT fees.

28. Mr. Sorensen is entitled to post-judgment interest, as applicable.

29. Under section 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