



Civil Resolution Tribunal

Date Issued: August 9, 2024

File: SC-2023-006737

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *5185666 Investments Ltd. v. 24 Hour Glass Ltd.*, 2024 BCCRT 756

B E T W E E N :

5185666 INVESTMENTS LTD.

APPLICANT

A N D :

24 HOUR GLASS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Deanna Rivers

INTRODUCTION

1. This is a dispute about payment for window damage.

2. AA Property Management Ltd. (AA Property) manages properties for the applicant, 5185666 Investments Ltd. (518). AA Property says it asked the respondent, 24 Hour Glass Ltd. (24 HG), for a quote for window repair, but 24 HG damaged a window at a different location. It claims \$2,599.33 in damages.
3. 24 HG says AA Property sent the technicians to the different location, the window was already broken, and it took a sample of the glass to match colour and tint to make the quote. It denies damaging the window.
4. AA Property's employee represents 518. 24 HG's general manager represents it.

JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.
8. 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.

ISSUES

9. The issues in this dispute are:
 - a. Did 24 HG take the sample from the wrong window?
 - b. Did 24 HG negligently damage the window?
 - c. If yes, does 24 HG owe AA Property \$2,599.33, or some other amount, for the cost of the replacement window?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicants must prove its claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision.
11. AA Property says it asked for a quote for glass repair at 518's property at Suite 309, but 24 HG went to Suite 301. AA Property says that 24 HG broke a window at Suite 301. It says it had to pay another company \$2,599.33 to repair the broken window. It claims this amount.
12. 24 HG says it could not locate the broken window at Suite 309 and its technician called SZ at AA Property. SZ directed them to Suite 301, to the right side of the front door in a landscaped area. It says the technicians found the window broken as she described. The technician took a sample of the glass to match the colour and window film. It says this is its standard practice when giving a quote for a replacement window.
13. SZ agrees in emails to 24 HG that she gave directions to Suite 301 and that the window was already broken but said that the key issue is that the glass was broken more during their inspection. She says the original break was much smaller, and the window did not have to be replaced. She says 24 HG should pay for the cost of the replacement window.

14. 518 claims in breach of contract, unjust enrichment, negligence, and estoppel.

Parties

15. The request for a quote was made by AA Property, and not 518. Through CRT staff, I asked the parties to provide submissions on the relationship between 518 and AA Property.

16. 518 submitted that AA Property is its agent. It is a well-established legal principle that an agent may enter into a contract for a corporation, if they advise the other party of that fact. See *Pageant Media Ltd. v. Piche*, 2013 BCCA 537, at paragraph 41. AA Property provided the title search of the property, showing 518 owns the property, and a Commercial Property Service Agreement appointing AA Property as the managing agent for the property. 24 HG did not dispute that AA Property was the managing agent for 518.

17. I find that at all material times AA Property was acting as 518's agent with respect to the window replacement.

Breach of Contract

18. For a contract to exist, the parties must have a "meeting of the minds." This means that both parties must agree on all essential terms and those terms must be clear enough to give a reasonable degree of certainty. There must also be an offer by one party that is accepted by the other, plus valuable "consideration." Consideration means payment of money or something else of value. See *Redfern Resources Ltd. (Re)*, 2021 BCCA 189. However, a quote is an offer, which must be accepted to constitute a contract.

19. AA Property requested 24 HG provide a quote for window replacement. Neither party provided evidence that the quote was provided. As there was no offer or acceptance, I find the parties did not yet have a contract to replace the window.

Unjust Enrichment

20. Unjust enrichment is a common law doctrine that says a person who has received a benefit at the expense of another without a valid reason is required to compensate the other. In this case, it requires 518 to show: a) that 24 HG was enriched (received a benefit), b) that 518 suffered a corresponding deprivation or loss, and c) that there was no “juristic reason” or valid basis for the enrichment. See *Kerr v. Baranow*, 2011 SCC 10.
21. Neither party provided evidence that 24 HG benefitted from the window damage. I find that there was no unjust enrichment.

Estoppel

22. Proprietary estoppel is a legal concept that stops a person from going back on a statement that the other person has relied on. Proprietary estoppel has three elements which must be satisfied: 518 must have received an assurance, it must have relied on that assurance, and it suffered a detriment as a result. See *Cowper-Smith v. Morgan*, 2017 SCC 61.
23. Neither party provided evidence that 24 HG gave any assurance to 518 or to AA Property concerning the window. I find estoppel does not apply in these circumstances.

Negligence

24. To succeed in negligence, 518 must show that 24 HG owed it a duty of care, that 24 HG breached the standard of care, and that 24 HG's alleged negligence caused the damage. See *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.
25. AA Property asked 24 HG to provide a quote for replacement of window glass in Suite 309, and it agreed to do so. The parties agree that AA Property redirected 24 HG's technician to Suite 301. I find that 24 HG owed 518 a duty of care to provide professional services.

26. Did 24 HG breach the standard of care of a reasonable technician when obtaining information for a quote for replacement of a window? RV, the tenant at Suite 301, said the window had been broken for about 1 year. This is not disputed. RV said the original hole was the size of a dime. Photographs of the window before the sample was taken show a small hole in the glass of a large window, with a spider-web crack above and beside the hole, and a linear crack to the left.
27. 518 provided photographs of the window after the sample was removed, showing a larger irregular shaped piece missing from the window. RV said the hole after the sample was taken was 4 x 6 inches wide, with cracks 4 feet long and 2 feet long.
28. 24 HG says the sample piece is about 2 x 4 inches. It provided pictures of samples labeled as taken from Suite 301's window and Suite 309's window. Comparing the glass sample with the surrounding details, each sample appears to be 10 to 15 cm of irregularly shaped glass.
29. 24 HG says its standard practice is to obtain a sample when the window is tinted or coloured to ensure a match. It says that it has done this for previous jobs for AA Property over their 13-year business relationship. It provided various photographs of samples labeled with different addresses and of removal of a full inner pane of glass from a previous job for AA Property.
30. 24 HG admits that its technician created a larger hole in the window. It says the inner pane of the 2-pane window was left fully intact. It says it is not possible to obtain a sample of window glass without causing additional damage. It says that it also took a sample from Suite 309, which is not disputed. I find it was 24 HG's standard practice to obtain a sample of glass to provide a quote.
31. AA Property does not dispute this was 24 HG's practice in previous jobs. Evidence of previous dealing may be used to determine the expectations of the parties. See *Hardwoods Specialty Products LP Inc. v. Rite Style Manufacturing Ltd. et al.*, 2005 BCSC 1100 at paragraphs 38 to 41. While that case dealt with the terms of a contract,

I find it applies equally to a request to provide a quote for services when the parties have had a long-term business relationship.

32. . I find AA Property was aware of and agreed to that practice by asking 24 HG to provide a quote for the window replacement at Suite 301. I find that AA Property has not proved that 24 HG breached the standard of care. I dismiss AA Property's claim.

Betterment

33. Even had I found that 24 HG breached the standard of care, I would dismiss 518's claim as it has not proved damages. In negligence claims such as this one, damages are awarded to the applicant to put them in the position they would have been in if the negligence had not occurred. With damage to personal property, this will generally equal the cost of repairing or replacing the damaged property to the condition it was before the negligent act.
34. Betterment happens when ordering the full cost of replacing an item would provide a person with an item of greater value than what existed before the damage. See *Laichkwiltach Enterprises Ltd. v. F/V Pacific Faith (Ship)*, 2009 BCCA 157.
35. 518 has paid to replace a broken window with a new window. The damage to 518 is in not being able to defer the replacement. Neither party provided information on the value of being able to defer the replacement. If 518 was reimbursed for the total cost of the new window, it would be in a better position than before the sample was taken. So, I would not have ordered the window's full replacement value in any event.

Fees and Dispute-Related Expenses

36. 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. As 518 was not successful, I do not order reimbursement of the tribunal fees or its claimed dispute-related expenses.
37. 24 HG did not pay fees or claim dispute-related expenses.

ORDERS

38. I dismiss 518's claim and this dispute.

Deanna Rivers, Tribunal Member