



Civil Resolution Tribunal

Date Issued: August 27, 2024

File: SC-2023-005601

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Brown v. Namura*, 2024 BCCRT 830

B E T W E E N :

MALCOLM BROWN

APPLICANT

A N D :

COREY NAMURA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This dispute is about payment for landscaping services.
2. The applicant, Malcolm Brown, says he and his mother, R, did landscaping work for the respondent, Corey Namura. The applicant says the respondent has refused to pay the invoice for those services. The applicant requests an order that the respondent pay \$3,690 for the landscaping work.

3. The respondent admits the applicant did landscaping work at his house, but says the applicant overbilled. The respondent also says the parties had an agreement that the respondent would pay for the work when the respondent's house sold, which has not yet occurred.
4. Both parties are self-represented in this dispute.

JURISDICTION AND PROCEDURE

5. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. These are the CRT's formal written reasons.
6. 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. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. 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.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.
8. The applicant provided late evidence in this dispute, after the CRT's deadline for providing evidence. The respondent was given the opportunity to review and provide submissions on this late evidence. So, I find there is no prejudice in admitting the late evidence, and I have done so.
9. The applicant provided evidence and submissions about interactions with the respondent involving a dog. The applicant also provided evidence and submissions about a prior CRT dispute involving the respondent and a different applicant. I find

that neither of these matters are relevant to the issues I must decide in this dispute. So, I place no weight on that material, and make no findings about it.

ISSUE

10. Does the respondent owe the applicant \$3,690 for landscaping work?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one the applicant must prove his claims on a balance of probabilities. This means more likely than not. I have read all the provided evidence and submissions, but refer only to what is necessary to explain my decision.
12. The respondent did not provide evidence in this dispute other than his submissions, although he had the opportunity to do so.
13. Text messages in evidence show that on March 4, 2023, the respondent asked the applicant to help him with work at the respondent's home. The respondent wrote, "can you help me all next week for \$45 per hour...and I'll pay you when I sell the house?"
14. The applicant replied on the same day, writing, "Yes that sounds great! We can do your yard and then just pay when you can... We can get started Tuesday."
15. The parties agree that the applicant and R did landscaping work at the respondent's home. There was no written contract between them, other than the text messages.
16. The applicant emailed the respondent an invoice on April 17, 2023. The invoice total was \$3,690 for 82 hours of labour at \$45 per hour.
17. On May 9, 2023, the respondent texted that he expected to list the house for sale any day. He wrote, "the house will sell quickly and then I can pay you."
18. The parties agree that the respondent has not yet paid the applicant for any landscaping work. The respondent has 2 arguments. First, he says the parties agreed

he would pay when the house sold. Second, the respondent says the applicant's invoice is too high. I address these 2 arguments in turn.

19. In his submission to the CRT, the respondent wrote, "We have a contract for me to pay them when the house sells." The applicant provided late evidence indicating that the house was sold in May 2024, after the respondent provided his submission. This evidence consists of photos of a realtor's Facebook page, showing the house address and the house itself with a "sold" sign in the yard. The realtor's text on the Facebook page confirms that the house was sold.
20. The respondent had an opportunity to reply to this late evidence, but did not. Based on the evidence, I accept that the house sold in May 2024. This means that under the terms of the contract, the respondent must pay the applicant for the landscaping work.
21. As noted above, the respondent also says the applicant's invoice was too high. Specifically, the respondent says the applicant and R worked fewer hours than the applicant billed for. The respondent also says he had to employ someone else to finish the work.
22. I find the respondent has not proved these assertions. The respondent provided no photos of unfinished work, and no evidence that he paid anyone else to do more work. Rather, I find the respondent's text messages to the applicant show that he was satisfied with the work. For example, the respondent texted comments such as "front looks great", and "we are in danger of winning a landscaping award". Later, the respondent texted the following:

Alex really appreciates your work and I think the three of us working ..with you calling the shots..make a great team...I think the house will sell ..I look forward to paying you for all Your great work...[R] also!

23. I find these texts do not support the respondent's argument that the applicant overbilled, and that R was "elderly" and only worked by directing the respondent for a few hours. They also do not support the respondent's assertion that he hired

someone else to complete the work. Rather, the texts indicate that the respondent was satisfied with the work and the finished product.

24. I also place significant weight on the fact that there is no evidence that the respondent objected when the applicant sent him the invoice on April 17. I find that if the respondent had legitimate concerns about the billed hours, he would have raised them then. The evidence before me indicates that the respondent did not do so. Instead, the next communication from the respondent is a May 9, 2023 text message to the applicant, stating “I am [waiting] for permits to list my house and it is expected any day..the house will sell quickly and then I can pay you.”
25. Again, I find this promise to pay 3 weeks after receiving the invoice does not support the respondent’s assertion that the applicant overbilled. Rather, based on the documentation provided by the applicant, including a notation of dates and hours worked by the applicant and R, I accept that the invoice reasonably reflects the work performed.
26. I order the respondent to pay the applicant \$3,690 for landscaping.
27. The *Court Order Interest Act* (COIA) applies to the CRT. I find the applicant is entitled to pre-judgment interest from May 30, 2024 (the date the house sold). This equals \$45.85.
28. As the applicant was successful in this dispute, under CRTA section 49 and the CRT’s rules I find he is entitled to reimbursement of \$175 in CRT fees. Neither party claimed dispute-related expenses, so I order none.

ORDERS

29. I order that within 30 days of this decision, the respondent must pay the applicant a total of \$3,910.85, broken down as follows:
 - a. \$3,690 in damages,

- b. \$45.85 in pre-judgment interest under the COIA, and
- c. \$175 in CRT fees.

30. The applicant is entitled to post-judgment interest under the COIA, as applicable.

31. This is a validated decision and order. Under CRTA section 58.1, a validated copy of the CRT's order can be enforced through the BC Provincial Court. Once filed, a CRT order has the same force and effect as an order of the BC Provincial Court.

Kate Campbell, Vice Chair