

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Canstar Restorations Limited Partnership
v. MBW Canada Holding Inc.*,
2026 BCSC 472

Date: 20260319
Docket: 218371
Registry: Vancouver

Between:

Canstar Restorations Limited Partnership

Plaintiff

And

MBW Canada Holding Inc.

Defendant

And:

Canstar Restorations Limited Partnership

Defendant by way of Counterclaim

And

Northstar Access Ltd., Scaffcheck Engineering Inc. and Jenish Castillo

Third Parties

Before: The Honourable Justice J. Walker

Reasons for Judgment

Counsel for the Plaintiff and Defendant by
way of Counterclaim:

S. Robertson
S. Ovens

Representative for the Defendant company,
appearing in person:

L. Luo

No other appearances

Place and Dates of Hearing:

Vancouver, B.C.
March 5-6, 2026

Place and Date of Judgment:

Vancouver, B.C.
March 19, 2026

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Introduction

[1] The plaintiff, Canstar Restorations Limited Partnership (“Canstar”) brings an application for summary trial with respect to two unpaid invoices owed to it by the defendant, MBW Canada Holdings Inc. (“MBW”).

[2] Canstar performed over \$1 million dollars in restoration services to MBW after a major fire at MBW’s property. The claim was fully insured, and MBW was fully paid for the amount of Canstar’s invoices by the insurer. However, MBW has refused to pay Canstar’s invoices.

[3] Canstar’s work on MBW’s property was performed pursuant to a contract with MBW. Pursuant to the provisions of the contract, Canstar took its instructions from the insurance adjuster. Canstar’s work and invoices were audited and then approved by the insurance adjuster before payment was remitted to MBW.

[4] The contract also provided that upon receipt of funds from the insurer for Canstar’s work, MBW was obliged to pay Canstar.

[5] MBW brought a counterclaim against Canstar, alleging amongst other things, that Canstar’s work was negligent. Canstar only seeks determination of their contractual claim on this summary trial application.

[6] MBW argues that the matter cannot be resolved by way of summary trial and argues that Canstar has not proven that MBW breached the contract. Many of MBW’s arguments relate to its counterclaim and its related action against its insurer and those involved in the adjudication of MBW’s claim.

Background Facts

[7] Canstar is a restoration company that provides services to clients who have experienced property damage including damage caused by fire. The majority of Canstar’s work is related to property damage that is covered by insurance. Canstar takes direction from adjusters and consultants retained by the insurer.

[8] MBW is the registered owner of a commercial property located at: 21735 Lougheed Highway, Maple Ridge, British Columbia (the “Property”). Within the Property is a hotel and a restaurant.

[9] Although MBW has been represented by legal counsel in the past, MBW is self-represented by Mr. Lizhi Luo, the owner of MBW.

[10] On December 31, 2020, there was a significant fire in the hotel which caused substantial fire, smoke and water damage to the building. The roof was severely damaged by the fire. The firefighting efforts resulted in water damage throughout the majority of the building.

[11] MBW was insured with the Gore Mutual Insurance Company (“Gore Insurance”). Gore Insurance appointed a number of consultants, including Darren Berg from Charles Taylor Adjusters, and Mike Kirkwood from MBC Engineering Group Inc. (“MBC Engineering”). Canstar took its direction from the adjuster and Mr. Kirkwood. The adjuster appointed Canstar to deal with the emergency portion of the claim related to the fire at the hotel.

[12] Insurance adjusters are appointed by insurers to oversee the claim process. Insurance adjusters assess the extent of damage or loss experienced by an insured following property damage, which in this case, was significant fire. Insurance companies hire adjusters to investigate claims and settle claims. The adjusters communicate with the insured throughout the claims process, on behalf of the insurance company.

[13] Canstar began its work on the Property, with MBW’s knowledge, on January 3, 2021.

[14] On January 7, 2021, Canstar and MBW entered into an agreement, called a work authorization, whereby Canstar would perform emergency restoration services with respect to the Property (the “Work Authorization”).

[15] The Work Authorization is a one-page standard form document. It provided four different boxes to be checked for the work agreed to. In this case, the checked box indicates “Emergency/Environmental Services”. The box indicating “Structural Repairs &/or Reconstruction” is not checked. The Work Authorization contained a total of eight “Terms & Conditions”, including:

- Canstar would perform the work “as soon as reasonably practicable and shall do so in a good and workmanlike manner in accordance with industry standards and as may be directed by the Adjuster/Insurer”.
- Canstar would be compensated for performing the work based on Canstar’s standard labour and material charges including applicable contractor’s fees plus GST/HST as and when invoiced by Canstar. Canstar’s standard charges were available on request.
- Any cheques issued by the insurer in respect of the work would be endorsed by MBW to Canstar.
- MBW was obliged to pay Canstar within 30 days of the date of an invoice failing which interest would be paid at a rate of 24% per annum, calculated from the date upon which such amount was due and payable under the date of payment in full

[16] An additional term was added in handwriting at MBW’s request: “MBW can cancel this Work Authorization anytime with a 24-hour written notice”.

[17] Before the Work Authorization was signed by Mr. Luo, Mr. Berg explained the process to him in emails dated January 3, 5, 6, and 7, 2021. Mr. Berg also met with Mr. Luo in person. Mr. Berg explained that Canstar had been engaged to perform restoration services.

[18] Canstar started the work at the Property before Mr. Luo signed the Work Authorization due to the urgency of the situation. Ms. Vicki Cunningham, project administrator at Canstar, deposed that she signed the Work Authorization on behalf

of Canstar for the work at the Property. She also deposed that as the fire occurred in the evening of December 31, 2020 and January 1, 2021 was a statutory holiday, she was not in the office until January 4, 2021. On January 4, 2021, Ms. Cunningham completed and signed the Work Authorization and sent it to the adjuster.

[19] Mr. Berg emailed the Work Authorization to Mr. Luo on January 4, 2021. On January 6, 2021, Mr. Berg again emailed the Work Authorization to Mr. Luo along with a detailed explanation of the proposed emergency scope of work. In his email, Mr. Berg explained that the work was required to ensure that further damage does not occur to the structure and that the work needed to be done quickly to be able to begin the process of securing the structure from the outside elements.

[20] The email further explained that once the building had been secured and dried, the next phase will start, which will identify all repairs required and then present a repair scope for bid purposes. The emergency phase will only deal with demolition and securing the structure from further damage from rain.

[21] On January 7, 2021, Mr. Berg emailed Mr. Luo and provided him with an update. He advised that he needed the Work Authorization for the Canstar restoration work to proceed. At this time, they were only doing what was needed to make the building safe and to try and prevent further damage. The water had already caused a lot of damage, so further water damage was not as much of a concern. However, to proceed, the Work Authorization needed to be signed.

[22] On the same day, Mr. Luo responded to Mr. Berg's email and thanked him for spending time with him that day. Mr. Luo attached the Work Authorization which he had signed.

[23] Mr. Berg deposed that while the work was being done on the Property by Canstar, he regularly met with Mr. Luo and explained the work that Canstar was performing and how the work furthered the object of restoring the Property.

[24] Mr. Berg authorized all of the work performed by Canstar. Most of the instructions Mr. Berg provided were verbally on site, as he assessed the Property with Canstar and other consultants engaged by the insurer.

[25] It is obvious, from the photographs of the fire and the aftermath, that this was a very significant fire that caused severe damage. It is also apparent, based on the photographic evidence and the affidavit material before me, that a fire of this magnitude could cause structural damage to the building.

[26] The work Canstar performed included:

- a) Shoring of the damaged roof.
- b) Removal of damaged roof and mechanical equipment.
- c) Removal of the damaged framing to second floor.
- d) Removal of debris throughout the hotel.
- e) Lead abatement in the tiling located in some of the bathrooms.
- f) Drywall and interior finish removal which was required because in certain areas in the basement of the hotel, there was standing water between two and three feet. The drywall and finishing could not have been left in place without developing mould.
- g) Removal of contents from the hotel to ensure that the restoration work could be performed and to allow contents to be dried off-site.
- h) A roof tent was erected to cover the roof during the emergency phase of the restoration to protect the structure from rain.
- i) In the areas of the hotel that were not as severely impacted by water ingress, Canstar attempted to dry those areas with dehumidifiers and large commercial grade fans.

- j) Fencing was erected around the Property to ensure that the space was secure, and the public could not access the work site or the hotel while it was being worked on by Canstar.

[27] Canstar also sealed off the electrical room to protect it from damage and took steps to divert water ingress to prevent water from migrating to the restaurant.

[28] Canstar's first invoice for work performed was in the amount of \$750,128.53. It was issued and delivered to Mr. Berg on February 26, 2021. On March 2, 2021, Canstar provided a labour summary to Mr. Kirkwood and Mr. Berg in relation to this invoice.

[29] Canstar's second invoice was in the amount of \$246,069.10. It was issued on April 30, 2021 and delivered to Mr. Berg and Mr. Kirkwood on the same day. On April 30, 2021, Canstar provided a labour summary to Mr. Berg and Mr. Kirkwood in relation to this invoice.

[30] MBC Engineering audited the invoices and recommended payments of \$754,882.54 for the first invoice and \$234,260.09 for the second Invoice. As a result, Canstar reissued invoices to Mr. Berg and Mr. Kirkwood as follows:

- a) On August 6, 2021, in the amount of \$754,833.82; and
- b) On August 26, 2021, \$234,260.09

[31] MBW does not dispute that it received the August 6, 2021 invoice on September 21, 2021, and the August 26, 2021 invoice on September 23, 2021.

[32] Mr. Kirkwood prepared reports explaining the recommendations he made with respect to the invoices. Mr. Kirkwood considered, based on the detailed audit he had conducted, that Canstar's work on the Property was well done, and the costs incurred were reasonable.

[33] On behalf of the insurer, Mr. Berg approved MBC Engineering's payment recommendations. In his opinion, the work performed by Canstar was reasonable

and what he expected to be completed given the size of the loss and the amount of work that was involved with restoring the Property to make it suitable for reconstruction.

[34] Gore Insurance sent cheques to MBW's bank, the Bank of Montreal, on August 26, 2021 in the amount of \$754,833.82 and on September 10, 2021 in the amount of \$234,260.09 reflecting the payments for Canstar that had been recommended by MBC Engineering.

[35] The letter enclosing the \$754,833.82 cheque was directed to the Bank of Montreal and indicated that it was related to "Emergency Costs to date". The letter enclosing the \$234,260.09 cheque was also directed to the Bank of Montreal and indicated that it was related to "2nd Canstar Emergency Invoice".

[36] MBW did not pay Canstar the invoice amounts, but in order to discharge liens Canstar registered against the Property, MBW paid \$1,008,490.09 into court pursuant to a consent order made on July 7, 2025 (the "Security").

Procedural History

[37] The history of this litigation is relevant to the determination of whether a summary trial is appropriate.

[38] Canstar filed its notice of civil claim on September 23, 2021, and its amended notice of civil claim on July 10, 2023. MBW filed its response and counterclaim on October 22, 2021. MBW filed an amended counterclaim on March 23, 2023.

[39] Since July 2023, Canstar has expressed its intention to proceed with its claim by way of summary trial. A one-day summary trial application was scheduled to be heard on May 8, 2024, but Canstar consented to MBW's request to adjourn to allow MBW to retain new counsel.

[40] The summary trial was next set for June 17, 2024, and the application that is before me was filed on May 29, 2024. On June 7, 2024, Canstar again consented to

an adjournment as MBW had retained new counsel, who was not in a position to proceed.

[41] The summary trial was reset for September 9, 2024, but once again Canstar consented to MBW's adjournment request as MBW had again retained new counsel. MBW estimated that two days would be required to hear Canstar's summary trial application.

[42] MBW has been self-represented since January 2, 2025, when MBW's fourth lawyer withdrew.

[43] Canstar was unable to secure two days of hearing time until June 2025, but the matter could not proceed as a judge was not available. In August 2025, the summary trial application was bumped again.

[44] October 16 and 17, 2025 were then set, but on October 6, 2025, MBW brought an application to disqualify MBW's counsel and his law firm. MBW raised this and a second disqualification issue before Justice Crerar on October 16, 2025 who adjourned the summary trial application to allow for the hearing of the disqualification applications. Justice Crerar prohibited MBW from bringing any other applications before the summary trial application was heard and ordered that both the summary trial and the disqualification applications were preemptory on MBW.

[45] The disqualification applications were heard and dismissed by Justice Underhill on November 19, 2025. The applications were found to be without merit.

[46] The summary trial application was then scheduled for December 11-12, 2025.

[47] On December 5, 2025, MBW filed an urgent application in the Court of Appeal seeking leave to bring a stay application on short notice, to stay these proceedings pending MBW's appeal of the dismissal of the disqualification application. On December 8, 2025, MBW's urgent leave application was dismissed by Registrar Outerbridge of the Court of Appeal.

[48] No judge was available to hear the summary trial application on December 11, 2025, and the matter was set for March 5 and 6, 2026.

[49] Despite Justice Crerar's October 16, 2025 Order, on February 23, 2026, MBW applied to adjourn the summary trial application set to commence on March 5, 2026. The application was dismissed.

MBW's Request to Make Further Submissions

[50] On March 12, 2026, MBW submitted an application requesting leave to file brief written submissions prior to judgment on two issues. First, MBW says that Canstar advanced a position that was not contained in its written submission and MBW was not afforded adequate time to respond to this new position. Second, MBW requests that any order by the court expressly address the scope of its effect on MBW's counterclaim to avoid any unintended issue estoppel or *res judicata* effect.

[51] I advised the parties that I would not entertain any further submissions. In relation to the first issue, MBW has not specified what Canstar argued that was not in their written submission. In making oral submissions, parties are not restricted by any written submission they may provide. In my view, the submissions made by Canstar were consistent with their application and pleading. Canstar did not advance any position they were not entitled to advance.

[52] Mr. Luo was afforded plenty of time to make his submissions. Canstar's oral submissions took less than one half day, and Mr. Luo made submissions for over one day. He was also provided with the opportunity to provide a limited sur-reply.

[53] In relation to the second issue, an order that my decision does not prevent a judge who hears MBW's counterclaim is not bound by my factual findings is unnecessary. As I set out below, the contractual claim advanced by Canstar is not inextricably interwoven with MBW's counterclaim. Determining Canstar's claim does not prejudice MBW's advancement of their counterclaim.

Suitability for Summary Trial

[54] MBW's objections to proceeding by way of summary trial include:

- a) MBW's counterclaim should proceed at the same time as Canstar's claim. Unfairness would result if Canstar's action is permitted to proceed separately, as the core issue is in the counterclaim.
- b) The amount of money in issue is significant and should require a full trial.
- c) Cross-examination of Mr. Berg is required to determine the scope of the direction he provided to Canstar, particularly since MBW has tendered expert evidence that challenges the scope of work Canstar performed at Mr. Berg's direction.
- d) Canstar has not provided the disclosure necessary for MBW to defend against the claim.
- e) Further discovery of Canstar's representative, Mr. Chiasson is required before this summary trial can proceed.
- f) There are factual disputes between the parties that cannot be resolved on the affidavit evidence, specifically relating to the scope of work performed by Canstar.

[55] Canstar submits that the governing legal principles, in assessing suitability for summary trial, strongly favour proceeding summarily. Canstar submits that MBW's arguments relate to their negligence claim or their separate action against Gore Insurance et al. Furthermore, MBW has tendered little if any evidence that supports their contention that this matter is not suitable for summary trial. The facts related to Canstar's contractual claim are not seriously disputed.

The Legal Principles

[56] Rule 9-7 of the *Supreme Court Civil Rules* applies to applications for summary trial. Rule 9-7(2) permits a party to an action to apply to the court for judgment under the *Rules* either on an issue or generally.

[57] The scope of a summary trial application is set out in R. 9-7(15) of the *Rules*:

(15) On the hearing of a summary trial application, the court may

- (a) grant judgment in favour of any party, either on an issue or generally, unless
 - (i) the court is unable, on the whole of the evidence before the court on the application, to find the facts necessary to decide the issues of fact or law, or
 - (ii) the court is of the opinion that it would be unjust to decide the issues on the application,
- (b) impose terms respecting enforcement of the judgment, including a stay of execution, and
- (c) award costs.

[58] The relevant factors to consider in determining whether it would be unjust to decide the issues summarily include: the complexity of the matter, the cost of taking the matter forward to a conventional trial in relation to the amount involved, the cost of litigation and time needed for a summary trial, the urgency of the matter and any prejudice to the delay: *Gichuru v. Pallai*, 2013 BCCA 60 at paras. 30-31.

[59] The existence of a counterclaim, or an allegation of negligence, do not prevent proceeding by way of a summary trial unless the claims are inextricably interwoven with the issues that must be determined at the trial of the counterclaim: *Shannon v. Dhaliwal*, 2015 BCCA 402 at paras. 7 and 8. In some cases, it may be fair and efficient to decide a discrete issue by way of summary trial even though it will not resolve the dispute in its entirety: *Peng v. Wang*, 2018 BCSC 1231 at para. 31.

[60] Where a summary trial application will not resolve the entire dispute, the court should consider whether the application will amount to “litigating in slices”. In *Ferrer v. 589557 B.C. Ltd.*, 2020 BCCA 83 at paras. 23-37, the court explained that the

concern is one of efficiency and fairness. Where a discrete issue is not inextricably interwoven with the remaining issues, provided that there are sufficient facts before the court to make the necessary factual findings, and an assessment of the other factors favour a summary trial, the concern about “litigating in slices” does not arise.

[61] A summary trial is a trial and must be treated as one, as explained in *Arbutus Investment Management Ltd. v. Russell*, 2022 BCSC 72, aff'd 2023 BCCA 9.

[48] This is a trial. The parties need to treat it as a trial: *Bayview Construction Ltd. v. Warner*, 2018 BCSC 2576 at paras. 19 and 27. There is no tomorrow. Each party must put their best foot forward: *Council of Canadians with Disabilities v. British Columbia (Attorney General)*, 2020 BCCA 241 at para. 64; *Gichuru v. Pallai*, 2013 BCCA 60 at para. 32; *Everest Canadian Properties Ltd. v. Mallmann*, 2008 BCCA 275 [Everest Canadian Properties] at para. 34; *1050017 B.C. Ltd. v. Lee*, 2019 BCSC 1512 at para. 8; *Player v. Janssen-Ortho Inc.*, 2014 BCSC 1122 at para. 165.

[49] Its adjournment application having failed, AIM was required to put all its cards on the table. At a summary trial, evidence can be weighed: *The Bank of Nova Scotia v. Robertson*, 2001 BCCA 580 at para. 11. Conflicts in the evidence can be resolved: *Zhao* at para. 6. At that point, there was no time left for AIM to collect further evidence or further documents. As the court stated in *Canadian Western Bank Leasing Inc. v. SSC Ventures (No. 98) Ltd.*, 2016 BCSC 223, “where a respondent fails to make use of pre-trial procedures and frustrates the proper functioning of the summary trial, they take a serious risk that the court will grant judgment relying upon the evidence it does have”: para. 36. Where an application is brought by one party, the other may not simply insist on a full trial in the hopes that, with the benefit of *viva voce* evidence, “something might turn up”: *Everest Canadian Properties* at para. 34.

Discussion

[62] In my view, Canstar’s action is suitable for determination by way of summary trial. As I will explain, the salient facts related to the contractual issue are not seriously disputed by MBW. MBW’s disagreements with the evidence relate to MBW’s negligence claim.

[63] I further find that it would not be unjust to decide this issue on a summary trial application. The factors weigh heavily in Canstar’s favour. The issues raised in relation to the contract between the parties is straightforward, and largely not disputed. While Canstar’s claim involves a significant sum, the amount of the claim alone is not a reason to require a full, inevitably lengthy and expensive trial.

[64] The issues raised in MBW's counterclaim are not inextricably interwoven with Canstar's breach of contract claim. There are no factual findings that will be made in this summary trial that would prejudice MBW's negligence claim. The trial judge hearing MBW's counterclaim will not be bound by any factual findings I may make in this application.

[65] I also find that the procedural history, outlined above, favours Canstar's summary trial application. Through multiple changes in counsel, adjournment applications and other applications MBW has sought to advance, it appears that MBW is attempting to avoid answering Canstar's claim. While the lack of court time has prevented Canstar's application from proceeding on some occasions, less than two weeks before this scheduled application, which was peremptory, MBW again sought an adjournment. No trial date is set, and MBW wishes to proceed with other applications before it will be ready to proceed to trial. Resolving the contractual dispute summarily will to a degree streamline the proceedings.

[66] In my view, MBW's other specific objections to the summary trial application are not sufficiently connected to the factors I must consider in my assessment of Canstar's contractual claim. First, in relation to cross-examination of Mr. Berg, no application has been made to cross-examine him. Mr. Berg's affidavit was sworn on July 6, 2023 and entered on that same day. MBW has been in possession of this affidavit for over two years. Furthermore, in MBW's related action against Gore Insurance et al., MBW has a right to examine Mr. Berg for discovery, which MBW has not taken advantage of.

[67] Second, in relation to further production, the issues raised by MBW relate to its negligence claim and not the contractual issue. Mr. Luo on behalf of MBW has not diligently pursued the sought production. Amongst other things, Mr. Luo deposes that he requires production related to the quality of the engineers hired by Canstar and whether they followed industry standards. In my view, the sought production does not relate to Canstar's debt claim. In relation to other document production requests, Canstar has provided responses to MBW. MBW was not satisfied with the

responses and filed a document production application on January 24, 2025, but has not taken any steps to set it for hearing.

[68] Third, Mr. Luo deposed in his July 31, 2024 affidavit that he seeks further discovery of Mr. Chiasson, but has not taken any steps to serve an appointment for discovery. Canstar attempted to facilitate MBW's request. On September 24, 2025, Canstar provided available dates for Mr. Chiasson's further discovery, but MBW would not agree to the proposed dates and did not suggest alternate dates. MBW has taken no steps to conduct the further examination for discovery that Mr. Luo argues is required before a summary trial can proceed. MBW has not provided any evidence about what Mr. Chiasson needs to be examined about and how it relates to the contractual claim.

[69] Lastly, MBW's central complaint is that in its restoration work Canstar demolished more of the building than what was required for restoration work. Mr. Luo says that Canstar and Mr. Berg colluded to do so in order to inflate the amount of reconstruction required, thereby, generating revenue for Canstar. Mr. Luo says that MBW was defrauded. He claims that this issue relates to the contractual claim because Canstar breached the contract by doing more work than required. A full trial is required to explore Canstar's fraud.

[70] There are several difficulties with MBW's position, most importantly there is no admissible evidence that supports Mr. Luo's belief. In any event, as detailed further below, his complaints about Canstar's and Mr. Berg's performance do not relate to the contractual debt claim.

Conclusion

[71] Canstar's action is suitable for resolution by summary trial. The facts related to Canstar's claim are not seriously disputed and are sufficient to allow for summary determination. It would not be unjust to decide the issues on this application, the matter is not complex, the issues raised in the counterclaim are not inextricably interwoven with Canstar's breach of contract claim, the costs of proceeding to a conventional trial taking into account the proceedings to date, favour summary

determination. Resolving the contractual claim will streamline the proceedings and not in any way complicate or prejudice the advancement of MBW's counterclaim.

Did MBW Breach the Contract

[72] Canstar submits that it entered into an enforceable contract with MBW. Properly interpreted, the Work Authorization allowed Canstar to take direction from the adjuster related to the work at the Property, was intended to capture all of the work performed by Canstar and Canstar would be compensated for its work. Canstar argues that the surrounding circumstances confirm the textual interpretation of the contract proffered by Canstar.

[73] MBW does not dispute that the Work Authorization was an enforceable contract, or that MBW received payment for Canstar's work and that MBW did not pay Canstar. However, MBW appears to challenge how Canstar argues the contract should be interpreted. In particular, while MBW appears to accept that the contract specifically allowed Canstar to take direction from the adjuster, MBW submits that such direction was not unlimited and MBW's consent was required to perform certain work.

[74] MBW's main argument is that Canstar failed to perform their work in a "good and workmanlike manner in accordance with industry standards." As noted, MBW submits that Canstar demolished parts of the damaged structure that were not required to be demolished. Mr. Luo asserts that the decision as to what work was required had to be made by an engineer and it was not. MBW argues that Canstar exceeded the scope of the contract since they were authorized to conduct emergency and environmental services but performed reconstruction work. Canstar failed to cover the exposed building in a timely manner, which caused further water damage to the building.

[75] MBW argues that the demolition work was conducted before the Work Authorization was executed and that work was illegal because it was done without required permits, breached local bylaws, breached the B.C. Building Code, and

breached Workers Compensation regulations. Since the law was breached, Canstar's bills are illegal.

[76] As a result, MBW argues that MBW should not have to pay for work that was conducted before the Work Authorization was executed or the work conducted after the Work Authorization was executed because the work performed before the Work Authorization was executed caused damage and increased the costs of the repairs. Mr. Luo says that MBW was taken advantage of during that period of time.

The Legal Principles

[77] The overriding concern in contractual interpretation is to determine the intent of the parties and the scope of their understanding. To do so the court must read the Work Agreement as a whole, giving the words used their ordinary and grammatical meaning, consistent with the surrounding circumstances at the time of formation of the agreement. The words of one provision must not be read in isolation but should be considered in harmony with the rest of the contract and in light of its purpose and commercial context: *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53 at para. 47.

[78] The surrounding circumstances are considered in interpreting the terms of a contract but must not be allowed to overwhelm the words in the agreement. The goal of examining the surrounding circumstances is to deepen the court's understanding of the mutual and objective intentions of the parties as expressed in the words of the contract. The nature of what constitutes the surrounding circumstances will vary from case to case, but it should only consist of objective evidence of the background facts at the time of the execution of the contract: *Sattva*, at paras. 57 and 58.

[79] Commercial contracts should be interpreted in a commercially reasonable manner because commercially reasonable interpretations are more likely to reflect the parties' objective intentions: *Blackmore Management Inc. v. Carmanah Management Corporation*, 2022 BCCA 117 at para. 42.

Discussion

[80] A large part of Mr. Luo's submissions included factual assertions and opinions which were not in evidence. Many of his assertions were contradicted by the evidentiary record and were not credible. While Mr. Luo is a self-represented litigant, who required the assistance of an interpreter, Mr. Luo is aware of the evidentiary and procedural requirements. He has had the assistance of four lawyers and on his own, has brought several applications in this court. I have not considered his assertions that are not in evidence but observe that in any event, nearly all of his submissions and assertions were focussed on matters related to his negligence claim and his related action against Gore Insurance et al.

[81] MBW also relies on a "Declaration" prepared by Ron Scott who states that he is a certified fire investigator. In his Declaration, Mr. Scott concludes that Canstar's work product, and conduct fell below the standard of practice for insurance fire restoration companies and general contractors. He sets out the reasons for his conclusion, which mirror Mr. Luo's submissions set out above.

[82] MBW seeks to rely on Mr. Scott's Declaration as expert evidence to support their submission that Canstar's work was deficient. Mr. Scott's opinions are clearly not admissible. Mr. Scott's qualifications are not set out, the Declaration does not conform with R. 11-2, and there is no indication as to what information Mr. Scott relied on in coming to his conclusions. Mr. Scott's Declaration appears to rely on facts that are contradicted by the evidence, and his conclusory opinion appears to be based on Mr. Luo's assertions. Mr. Scott does not appear to be impartial and instead advocates in support of MBW's position.

[83] I am unable to place any weight on Mr. Scott's Declaration, which in any event appears only to relate to MBW's counterclaim, and does not assist in responding to Canstar's allegation that MBW breached the contract.

[84] Mr. Luo alleges that he was pressured into signing the Work Authorization. He points to Mr. Berg's January 7, 2021 email to support his position. In his email, Mr. Berg wrote that before the next steps could be taken to work on the Property, he

needed the Work Authorization signed. There is no air of reality to Mr. Luo's duress claim. The rest of the email, other emails and Mr. Luo's own communications with Mr. Berg do not support that he was "pressured." In any event, MBW has not pleaded duress as a defence to Canstar's claim.

The Interpretation of the Work Authorization

[85] I accept Canstar's interpretation of the contract. Canstar was entitled to take direction from the adjuster, the work they performed fell within the scope of the contract and Canstar was to be compensated for that work.

[86] The surrounding circumstances support this interpretation. The emails between MBW and the adjuster are relevant surrounding circumstances. On January 3, 2021, Mr. Berg emailed Mr. Luo and advised that Gore Insurance had retained Canstar to assist with securing the building and make the building safe for the investigation. He further stated that Canstar would begin demolition of the damaged portion of the building to assess the full extent of the structural damage.

[87] On January 4, 2021, Mr. Berg emailed Mr. Luo and addressed the emergency work Canstar was doing to make the building safe. The Work Authorization was attached to the email.

[88] On January 6, 2021, Mr. Berg emailed Mr. Luo and again attached the Work Authorization. He indicated that it would allow Canstar to proceed. Mr. Berg indicated that they needed to move quickly to remove the wet structural material and contents and then begin the process of securing the structure from the outside elements. Mr. Berg explained that the emergency phase would only deal with the demolition aspect and securing the structure from further damage from rain. Once the building was secured and dried, they would begin the next phase which was to identify all repairs and present a repair scope.

[89] On January 7, 2021, in Mr. Berg's e-mail to Mr. Luo, Mr. Berg advised that the area where the fire started had been made safe. He further stated that Canstar required the Work Authorization signed to proceed, and at this time, Canstar was

only doing what was needed to make the building safe and prevent further damage. Mr. Berg advised that once the contents were removed, Canstar would then determine the next steps towards getting the structure water-tight and dry.

[90] On January 7, 2021, Mr. Luo emailed Mr. Berg and expressed his appreciation for Mr. Berg's efforts. Mr. Luo attached the signed Work Authorization. In my view, it was clear to MBW that they knew that they were entering an agreement in which Canstar would perform and be paid for emergency restoration work done at the direction of the adjuster.

[91] I do not accept MBW's argument that Canstar required MBW's approval for each step they took to restore the Property. An insurance adjuster can be an agent for an insured and in this case, an agency arrangement was clearly provided for in the Work Authorization: *Eaglestone v. Intact Insurance*, 2022 BCSC 2007 at paras. 127-133. There is no evidence that Canstar exceeded the scope of what the adjuster directed, indeed the evidence indicates that Canstar's work was performed in accordance with the adjuster's direction.

[92] MBW's suggestion that any work performed by Canstar before Mr. Luo executed the Work Authorization was not subject to the conditions in the Work Authorization is not supportable. MBW knew that Canstar was working on the Property and implicitly, if not explicitly, consented to it. The situation was urgent. The fire caused significant damage, and the building was not safe. It had to be made safe before any steps could be taken to minimize further damage. These steps were necessary before the insurance claim MBW had made could be adjudicated. The Work Authorization did not contain any term suggesting that only work performed after execution would be invoiced. Mr. Luo's interpretation would be commercially unreasonable.

[93] There are several problems with MBW's argument that MBW did not have to pay Canstar because Canstar's work was illegal. First, there is no evidence that Canstar's work breached any laws, regulations, bylaws or codes. Mr. Luo's arguments are speculative. Second, even if Canstar's work on the Property was

“illegal” it is difficult to see how MBW is entitled to retain funds advanced by the insurance company for the purpose of paying Canstar, for work Canstar clearly performed.

[94] MBW’s claim that the scope of Canstar’s demolition went beyond what was needed is not supported by any evidence. The evidence demonstrates that Canstar acted on instructions from the adjuster who has deposed that Canstar’s work was reasonable. Significantly, Canstar’s invoices were audited by Mr. Kirkwood, an engineer who scrutinized the work Canstar performed.

[95] Any claim MBW has that its insurance company and its agents authorized more work than was necessary or colluded with Canstar is the subject of MBW’s counterclaim and related action. It does not have anything to do with Canstar’s contractual claim. Mr. Luo’s arguments may be able to be advanced in the trial of his counterclaim and in his related action against Gore Insurance et al.

[96] It is noteworthy that MBW included a term in the Work Authorization that permitted MBW to cancel the Work Authorization by providing 24 hour written notice. There is no evidence that MBW had any concerns with Canstar’s performance of the work contracted to in the Work Authorization. At no time did MBW invoke the cancellation clause. Only after the funds were advanced to MBW did MBW complain about Canstar’s work.

Conclusion

[97] On the evidence before me, I find that Canstar has proven that:

- a) The Work Authorization allowed Canstar to take direction from the adjuster for the work on the Property.
- b) The Work Authorization permitted Canstar to perform the emergency services work on the Property and in return Canstar would be paid for its work.

- c) The Work Agreement provided that Canstar would be compensated for performing the work based on Canstar's standard labour and material charges including contractor's fees plus GST/HST as and when invoiced by Canstar, within 30 days of the date of the invoice, and failing payment, interest would be paid at 24% per annum

The Work Authorization was Breached by MBW

[98] Canstar argues that MBW breached the Work Authorization by failing to pay Canstar, despite receiving payment from the insurer for Canstar's work on the Property in accordance with the Work Agreement.

[99] While MBW argues that the invoices should have been sent directly to MBW and all underlying documents to justify the quantum of the invoices should have been provided to MBW, MBW does not dispute that they received the funds from the insurer that were intended to be paid to Canstar. MBW admits that they have not paid Canstar anything.

[100] The Work Agreement required that MBW endorse any cheques issued to MBW by the insurer to Canstar. Mr. Luo argues that since the cheques were directly deposited into his bank account by the insurer, he could not have endorsed the cheques to Canstar.

[101] Mr. Luo's arguments overlook that regardless of how payment was made by the insurer, the Work Agreement clearly provided that MBW was liable to pay Canstar for the charges incurred pursuant to the Work Authorization and MBW was required to pay Canstar the invoiced amounts. If MBW did not pay the invoices, MBW was liable to pay interest on the invoices commencing 30 days after the date of the invoices.

[102] I find that MBW breached the Work Agreement by failing to pay Canstar's invoices for the work performed pursuant to the Work Agreement. Canstar is entitled to judgment in the amount of the invoices plus interest of 24% per annum calculated from the date upon which such amount was due and payable.

Conclusion

[103] Canstar's action against MBW by way of summary trial is allowed. Canstar has proven that MBW breached the Work Agreement by failing to pay Canstar the invoiced amounts.

[104] Considering that the August 6, 2021 invoice was not provided to MBW until September 21, 2021 and the August 26, 2021 invoice was not provided to MBW until September 23, 2021, in my view interest should be calculated 30 days following receipt of the invoices.

[105] As the successful party in this action, Canstar is entitled to their costs of the action.

[106] Judgment is granted against MBW as follows:

- a) Judgment in the amount of \$1,038,549.15, comprised of:
 - i. \$754,833.82 based on the invoice dated August 6, 2021 and GST of \$37,741.69; and
 - ii. \$234,260.09 based on the invoice dated August 26, 2021 and GST of \$11,713.00.

- b) Interest calculated at the contractual rate of 24% per annum beginning:
 - i. 30 days after September 21, 2021 for the August 6, 2021 invoice in the amount of \$754,833.82; and
 - ii. 30 days after September 23, 2021, for the August 26, 2021 invoice in the amount of \$234,260.09.

- c) The Security, plus any accrued interest, held in court pursuant to the consent order dated July 7, 2025 be paid out to Canstar by way of cheque payable to its counsel “DLA Piper (Canada) LLP “In Trust”.
- d) Costs of Canstar’s action.

“J. Walker, J.”