



Civil Resolution Tribunal

Date Issued: January 15, 2018

File: SC-2017-003383

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Whiteside v. End Of The Roll*, 2018 BCCRT 9

B E T W E E N :

Joseph Whiteside

APPLICANT

A N D :

End Of The Roll

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about whether the respondent End Of The Roll failed to comply with a verbal agreement to install the applicant Joseph Whiteside's living room carpet in only 2 pieces. The applicant wants the respondent to re-do the installation with 1

larger piece to replace the 6 smaller sections the respondent had installed. Both parties are self-represented.

JURISDICTION AND PROCEDURE

2. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 of the *Civil Resolution Tribunal Act* (Act). 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.
3. 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. Neither party requested an oral hearing.
4. 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.
5. Under tribunal rule 121, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUES

6. The issues in this dispute are:
 - a. Whether the parties verbally agreed that the respondent would install the applicant's living room carpet in 2 pieces, and

- b. If so, whether the respondent should be ordered to re-do the applicant's carpet installation in 1 piece.

EVIDENCE AND ANALYSIS

7. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
8. While the applicant paid the respondent to install carpet into 2 rooms, only the living room carpet is at issue. In particular, the living room was carpeted in 6 sections, rather than in 2 sections under the alleged verbal agreement.
9. The applicant says that End Of The Roll's flooring advisor Mr. Blunderfield attended the applicant's home, measured the 2 rooms that needed carpet, and said that the carpet would be laid in 2 pieces in each room. The applicant says each room is around 200 square feet, and the living room is rectangular in shape. The applicant alleges that as such no "specialty cuts" should have been required and that 2 pieces should have been the maximum number. However, no photos of the room or carpet were provided. The parties agree that no written quotation was given and the agreement was a verbal one. After Mr. Blunderfield's visit, the applicant paid End Of The Roll's invoice by credit card.
10. A few weeks later, Windmill Flooring installed the carpet in the owner's home. The applicant says that on arrival, the carpet installer Mike Knudsen remarked that he did not think there was enough carpet to complete the job, but proceeded to install the carpet. The owner submits Mr. Knudsen completed the 1st room with 2 pieces, but later told the applicant he did the living room using 7 pieces. It is unclear why the applicant refers here to 7 pieces and 6 pieces elsewhere, but nothing turns on the difference.

11. The documentary evidence before me is limited to a) Windmill Flooring's invoice, and b) the respondent's May 30, 2017 invoice that preceded Windmill Flooring's June 5, 2017 installation. It is undisputed that there is nothing in the respondent's invoice to indicate the number of pieces or seams per room. Windmill Flooring's installation invoice records the applicant's 'after the fact' protest that the living room carpet was installed in 2 pieces, but there is no other indication on it that this 2-piece limit was ever agreed upon between the applicant and the respondent.
12. The respondent submits that its contract was to install 465 square feet of carpet into the rooms and that was done. The respondent denies there was never any agreement "on seam placement". The respondent submits that its policy on seams varies depending on the layout but can be done with as many as 12 pieces depending on the customer's budget. The respondent submits that it encourages the applicant to "go back through all the email correspondence prior to purchase" and that in it there is no mention of the number of seams and placement. Those emails were not provided to the tribunal. The applicant replied that the "2 pieces" aspect of the agreement was only verbal.
13. As noted above, the applicant bears the burden of proof. I am not satisfied that the respondent agreed to limit the carpet installation in each room to 2 pieces. I accept the applicant was surprised at the 6 or 7 carpet sections, rather than 1 or 2. However, the applicant accepted and paid the respondent's later invoice setting out the agreement's terms, which did not address seam placement or number of pieces. I find it more likely than not that if there was an agreed 2-piece limit at the time the agreement was made, it would have been spelled out in the respondent's invoice.
14. Given my conclusions above, I dismiss the applicant's claim for the carpet re-installation. In accordance with the tribunal's rules, I find the applicant is not entitled to reimbursement of the \$125 in tribunal fees, given he was not successful in the dispute.

ORDER

15. I order that the applicant's dispute is dismissed.

Shelley Lopez, Vice Chair