



# Civil Resolution Tribunal

Date Issued: July 16, 2018

File: SC-2017-006397

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wescon Cedar Products Ltd. v. Carwood Homes Ltd.*, 2018 BCCRT 332

**B E T W E E N :**

Wescon Cedar Products Ltd.

**APPLICANT**

**A N D :**

Carwood Homes Ltd.

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Mary Childs

## **INTRODUCTION**

1. The applicant, Wescon Cedar Products Ltd., makes and sells doors. The respondent, Carwood Homes Ltd., purchased a number of doors from the applicant but has not paid for them. It says that problems with the doors caused

delay and expense which justify not paying for them. 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.
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 126, in resolving this dispute the tribunal may make one or more of the following orders:
  - a. order a party to do or stop doing something;
  - b. order a party to pay money;
  - c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

6. The issue in this dispute is: does the respondent have any basis for refusing to pay for the doors?

## **EVIDENCE AND ANALYSIS**

7. The applicant makes and sells custom made wooden doors. Occasionally the applicant sells seconds. Seconds are doors which have been returned to the applicant for various reasons. They are sold at discounted prices without a warranty. The respondent builds homes.
8. In May 2017 the respondent's representative, C, emailed the applicant to order 18 doors. He called the applicant to discuss the order, which was for seconds. A confirmation document was emailed to him on May 9, 2017. It said "ALL #2 PRODUCT – NO WARRANTY – NO RETURNS". The applicant has not provided a signed copy of the confirmation. The respondent has not challenged the accuracy of the unsigned copy.
9. The applicant provided a number of invoices showing that the respondent had purchased seconds from the applicant since May 2016. In each case the invoices were marked "ALL #2 PRODUCT – NO WARRANTY – NO RETURNS". The applicant says that the respondent was well aware that there was no return and no warranty for seconds. The respondent has not disagreed with this.
10. The respondent intended to use the doors for a home being built in Saanich. The applicant delivered the doors to the respondent's job site on May 18, 2017. On May 23, 2017, the respondent sent the applicant an email complaining about a crack on the side of one of the doors. In that email, the respondent also complained about the type of hinges on another door. The applicant agreed to replace the cracked door and the hinges. The respondent says that five of the doors were too big when delivered; the applicant says the respondent didn't correctly specify the sizes when ordering these doors. The applicant says the sizes

ordered by the respondent were expressed as slab sizes (the size of the wooden door slab itself) but some of the measurements given were actually for the rough opening (the size of the hole in the wall into which the door slab and door jamb are placed). The applicant replaced the overly large doors with smaller ones, made to order. The respondent collected the replacement doors on June 15, 2017.

11. Although the confirmation document stated that the payment terms were C.O.D., the applicant did not insist that the respondent pay for the doors when they were delivered. Instead, it sent the respondent an invoice on May 19, 2017. The applicant sent further emails requesting payment on July 20, 2017, September 19, 2017, October 2, 2017, October 12, 2017, and February 6, 2018.
12. On June 21, 2017, C emailed the applicant to complain that he had not heard back regarding “the issues with my last door order.” The respondent now says that expense and delay caused by replacing the doors and hinges is the reason for the respondent’s refusal to pay. The respondent has not provided any evidence of the delay or expense, however. To the contrary, an exchange of emails between the parties on June 14, 2017 includes a statement by the respondent that the replacement doors were needed as soon as possible because the finishing carpenter would be showing up the next day to install them. The doors were picked up by the respondent on June 15, 2017, the day the finishing carpenter was due to work on them. There is no evidence that completion of the respondent’s project was delayed.
13. The applicant says the respondent not only got its money’s worth, it got more than it was entitled to. Doors bought as seconds were replaced with custom-made doors at no extra cost to the respondent, and the hinges the respondent disliked were also replaced at no extra charge.
14. The parties had a contract for the sale of doors for a total price of \$4,793.25 including taxes. Whatever problems there may have been with the doors, it appears that the applicant remedied all the problems in a reasonable time. In the

end, the respondent received a number of new custom-made doors instead of the seconds it had ordered.

15. The respondent has not made a counterclaim so the issue of any loss caused by delay is not before me. In any event, the respondent has not provided any evidence that the problems with the doors caused any financial loss. I make no finding of fact about such loss.
16. I find that the respondent is obliged to pay the applicant the claimed amount of \$4,793.25. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find the applicant is entitled to reimbursement of \$175.00 in tribunal fees. The applicant also asked for reimbursement of \$45.87 in dispute-related expenses but has not provided evidence of those costs. I therefore do not order reimbursement of that amount.

## **ORDERS**

17. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$5,020.16, broken down as follows:
  - a. \$4,793.25 as payment for the doors supplied by the applicant,
  - b. \$51.91 in pre-judgment interest under the *Court Order Interest Act*, calculated from the day on which the applicant sent its invoice to the respondent; and
  - c. \$175.00 in tribunal fees.
18. The applicant is entitled to post-judgment interest, as applicable.
19. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The

time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.

20. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Mary Childs, Tribunal Member