



# Civil Resolution Tribunal

Date Issued: July 31, 2018

File: SC-2017-006324

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Eric Seguin dba Kal Lake Painting Services Co. v. Anderson et al*,  
2018 BCCRT 403

B E T W E E N :

Eric Seguin dba Kal Lake Painting Services Co.

**APPLICANT**

A N D :

Patricia Anderson and Gene Anderson

**RESPONDENTS**

A N D :

Eric Seguin dba Kal Lake Painting Services Co.

**RESPONDENT BY COUNTERCLAIM**

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**REASONS FOR DECISION**

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Tribunal Member:

Karen Mok

## **INTRODUCTION**

1. The applicant, Eric Seguin doing business as Kal Lake Painting Services Co. (Mr. Seguin), and the respondents, Patricia Anderson (Mrs. Anderson) and Gene Anderson (Mr. Anderson) (collectively, the Andersons), entered into an agreement that Mr. Seguin would paint the interior of the Andersons' house. Mr. Seguin says he completed the work under the agreement and seeks payment of the outstanding balance on his invoice totalling \$821.62.
2. The Andersons say that Mr. Seguin failed to complete the work to a professional standard, as required by the contract, and refuse to pay the outstanding balance. In his counterclaim, Mr. Anderson claims \$2,000 for the time and cost of repairing the damage Mr. Seguin caused as a result of the poor paint job. I note that Mrs. Anderson is not a party to the counterclaim.
3. The parties are self-represented.

## **JURISDICTION AND PROCEDURE**

4. 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.
5. 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.
6. 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.

7. 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**

8. The issues in this dispute are:
  - a. Did the applicant complete the paint job satisfactorily?
  - b. If not, what is the appropriate remedy?

## **EVIDENCE AND ANALYSIS**

9. The applicants each bear the burden of proving their claims on a balance of probabilities. This means Mr. Seguin must prove he is entitled to payment of the \$821.62 invoice balance. In his counterclaim, Mr. Anderson must prove Mr. Seguin is responsible for the \$2,000 claimed for the damage to his house. While I have reviewed all of the evidence, I have addressed it only to the extent needed to explain my decision.
10. On August 1, 2017, Mr. Seguin gave Mrs. Anderson a quote to paint the interior of the Andersons' house in two coats of paint. The quote specified certain rooms, hallways and ceilings in the house, and included the basement and kitchen cabinets. The quote was amended on August 2, 2017, to a total of \$3,534.30 including GST. It is undisputed that this quote became the contract between the parties, which provided for payment in three instalments.

11. It is undisputed that Mr. Seguin began the paint job on August 22, 2017 and completed the work on September 4, 2017. On September 1, 2017 and again on September 4, 2017, upon completion of the paint job, he requested the Andersons pay the outstanding balance of \$821.62. This amount took into account a deduction of \$861 for the kitchen cupboards he did not paint and an additional \$188.40 for paint he had purchased on their behalf.
12. In a series of emails Mr. Anderson and Mr. Seguin exchanged on September 5 to 7, 2017, Mr. Anderson advised Mr. Seguin that he would not pay the invoice balance because he was dissatisfied with the paint job and the paint drippings left at the house. In reply, Mr. Seguin offered to pay for a cleaning company to clean the paint drippings but required him to first settle his invoice. Mr. Anderson declined the offer and refused to make payment.
13. Mr. Seguin says that, under the contract, he completed the paint job and as such, the Andersons are required to pay the outstanding amount of the contract. He admits that “there were a few drops of paint here and there” but as noted he had offered to pay to have those cleaned.
14. The Andersons argue that they are not obliged to pay Mr. Seguin the balance of the invoice because they were not satisfied with his substandard work. More specifically:
  - a. there were numerous paint drippings throughout the house, including on the staircase carpet and trim, the wood flooring and baseboards, the linoleum and on some of the furniture and appliances,
  - b. Mr. Seguin failed to paint one of the living room walls, the upstairs staircase trim, and one of the ceilings, as he was contracted to do, and
  - c. on some walls, the original darker paint could be seen underneath the new coats of white paint. The Andersons say that they initially asked Mr. Seguin if primer was required and his response had been that it was not necessary as there was primer built in to the paint.

15. I find that the paint job was not completed to a satisfactory standard. The photographs filed in evidence show, and I find, that there were numerous spots where the paint had dripped or smudged on the floors, carpet, tiles, trim, furniture and appliances, and that paint on some of the ceilings bled into the edges of the walls. I accept that Mr. Seguin addressed the shading, arising from the original paint showing through, by applying additional coats. I also find that, because Mr. Seguin demanded full payment before cleaning the paint drippings, it was reasonable for Mr. Anderson to refuse his offer.
16. I find that the Andersons have proven their allegation of unsatisfactory work. In other words, I find Mr. Seguin has not proved his claim that he completed the parties' painting contract as required, and therefore he is not entitled to full payment.
17. I find it reasonable to discount \$400, roughly the amount Mr. Seguin quoted to paint the living room and half of the hallway and stairs, from the balance of \$821.62, as set out in the September 4, 2017 invoice. This is to address the areas that were not painted, the bleeding edges between the ceilings and walls.
18. I also allow Mr. Anderson's counterclaim, with respect to the quote from a cleaner for \$805.88 that contemplates cleaning the paint on each of the staircases, tile and grout in the basement bathroom and hallway, and 29 other specific paint drippings.
19. Mr. Anderson has not, however, provided further evidence to establish damages totalling \$2,000. While he provided a quote for painting the interior of the house, it appears that this was an estimate he obtained prior to Mr. Seguin doing the work, likely when he was first looking to hire a painter. It is not necessary for the entire house to be re-painted, thus the quote is not helpful in calculating the amount of damages. Accordingly, the remainder of his counterclaim is dismissed.
20. Based on the above, I find that the Andersons owe Mr. Seguin a balance of \$421.62, which is set off by the \$805.88 I find Mr. Anderson is entitled to for his claim. Therefore, I order Mr. Seguin to pay Mr. Anderson \$384.26.

21. There was mixed success for each party in their respective claims. I therefore find neither is entitled to reimbursement of tribunal fees.

## **ORDERS**

22. Within 30 days of the date of this order, I order Mr. Seguin to pay Mr. Anderson a total of \$387.78, broken down as follows:

- a. \$384.26 as compensation for the damage to the Andersons' house,
- b. \$3.52 in pre-judgment interest under the *Court Order Interest Act*.

23. The parties' respective claims are otherwise dismissed. Mr. Anderson is entitled to post-judgment interest, as applicable.

24. 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.

25. 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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Karen Mok, Tribunal Member