



Civil Resolution Tribunal

Date Issued: January 18, 2019

File: SC-2018-004583

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *BC Premium Flooring Ltd. v. Metrotown Flooring Centre Ltd.*,
2019 BCCRT 76

B E T W E E N :

BC Premium Flooring Ltd.

APPLICANT

A N D :

Metrotown Flooring Centre Ltd.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. This dispute is about payment for flooring installation. The applicant, BC Premium Flooring Ltd., says the respondent, Metrotown Flooring Centre Ltd., failed to pay its

outstanding invoice, number 1098. The applicant seeks an order for payment of \$1,751.40.

2. The respondent says it is not liable to pay the invoice because the applicant's work was done poorly, was unsatisfactory, caused delays, and required costly repairs by another flooring installer.
3. The applicant is represented by an Elias Sahar, who I infer is its principal. The respondent is represented by an employee, Eleni Economou.

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 118 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. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.
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: 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

8. The issue in this dispute is whether the respondent must pay the applicant \$1,751.40 for flooring installation work.

EVIDENCE AND ANALYSIS

9. 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.
10. On January 11, 2018, the respondent sent the applicant a work order for flooring installation in an apartment owned by the respondent's client. The email said the respondent would deliver the materials to the jobsite, and that the work was to be performed in 2 stages, with the first day of installation on January 17, 2018.
11. The applicant completed the first stage of the flooring installation on January 17. On January 25, the respondent's project manager, B, emailed the applicant and said he would have another installer look after the deficiencies from the first stage of the installation. B instructed the applicant to cancel the second stage of the job.
12. The applicant's invoice 1098 is dated January 19, 2018. The invoice refers to flooring installation work on January 17 and February 12, 2018. However, based on B's January 25 email, and the fact that the invoice is dated before February 12, I find the applicant only worked on the job on January 17. The total billed was \$1,751.40 plus GST. It is unclear from the invoice how much of this amount was for labour, and how much was for supplies such as levelling compound.

13. The applicant emailed and texted the respondent seeking payment, and sent the respondent a letter demanding payment on April 17, 2018.
14. In his submissions to the tribunal, the applicant admits there are deficiencies in his work, but he does not specify the nature or extent of the deficiencies. He submits that the respondent is entitled to deduct \$210 for the second installers' time to fix the deficiencies, plus \$56 for materials.
15. The respondent says its client is still unhappy with the applicant's work, and that the second installer visited the jobsite 6 or 7 times to try to correct it, but only billed for 2 visits at \$210 each. The respondent also says project manager B spent 10 hours trying to repair the applicant's work.
16. The respondent agrees it owes the applicant something for the work he did, but says it is entitled to deduct \$976 for the cost of repairing the deficiencies. The respondent provided copies of the second installers' invoices, totalling \$420, and an invoice for \$56 in materials. The respondent also says it is reasonable to deduct \$500 for B's time, at \$50 per hour.
17. The respondent provided photos of the claimed deficiencies, which relate primarily to large gaps between the edge of the flooring and the walls. The photos show that in some areas, the applicant filled these areas with shims. The photos also show uneven edges between the stair risers and the wall. Based on this evidence, and the fact that the applicant admits deficiencies, I find the respondent is entitled to make deductions from the applicant's invoice for the cost of deficiency repairs. Since these amounts were supported by invoices, I find that \$420 for the second installers' time and \$56 for materials are reasonable in the circumstances.
18. The applicant objected to the second installers' June 10, 2018 invoice for \$210 because that work was performed 5 months after the original job. However, emails provided by the respondent show that deficiency repairs were still ongoing in July 2018, and their client was still complaining about stair squeaks and the finish on the

edge of the stairs. On that basis, I accept that the June 10, 2018 invoices relates to the applicant's original flooring installation.

19. The applicant says the respondent should provide more detailed information about how the second installer and B spent their time. However, the burden of proof is on the applicant in this dispute. He has admitted to deficiencies in his work requiring repair, but he provided no evidence about how much time those repairs ought to have taken. Based on the photos of the deficiencies and other evidence provided by the respondent, I accept that B spent considerable time working on the deficiencies, dealing with the client, and dealing with the second installer. For that reason, I find it is reasonable in the circumstances for the applicant to deduct \$500 from the applicant's invoice for B's time.
20. For all of these reasons, I find the respondent is entitled to deduct \$976 from the applicant's invoice. I therefore order the respondent to pay the applicant \$775.40. The applicant is also entitled to pre-judgment interest on this amount, under the *Court Order Interest Act* (COIA). I find that this interest should be paid from July 17, 2018, as this is date of the last evidence from the respondent showing time spent dealing with the deficiencies.
21. 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. The applicant was only partially successful in this dispute. For that reason, I find the applicant is entitled to reimbursement of half of the tribunal fees paid, which equals \$62.50. Neither party claimed dispute-related expenses.

ORDERS

22. I order that within 30 days of the date of this decision, the respondent pay the applicant a total of \$843.75, broken down as follows:
 - a. \$775.40 for the outstanding invoice,

- b. \$5.85 in pre-judgment interest under the COIA, and
 - c. \$62.50 in tribunal fees.
- 23. The applicant is entitled to post-judgment interest, as applicable. The applicant's remaining claims are dismissed.
- 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.

Kate Campbell, Tribunal Member