



# Civil Resolution Tribunal

Date Issued: March 4, 2019

File: SC-2018-005035

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Johnson v. Tregear*, 2019 BCCRT 254

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

Scott Johnson

**APPLICANT**

**A N D :**

Paul Tregear

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Julie K. Gibson

### **INTRODUCTION**

1. The applicant Scott Johnson says he provided drywall services to the respondent Paul Tregear at an agreed price of \$2,250 but was paid only \$1,125. The applicant claims the remaining \$1,125.

2. The respondent says the applicant's drywall work was substandard even after the applicant completed touch-ups. The respondent says he had to pay someone else to complete the work properly. The respondent asks that the dispute be dismissed.
3. The parties are each 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 118 of the *Civil Resolution Tribunal 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.

## **ISSUE**

8. The issue in this dispute is whether the applicant completed the drywall work for the respondent in a satisfactory way, such that the respondent must pay the balance of the agreed price for his work.

## **EVIDENCE AND ANALYSIS**

9. This is a civil claim in which the applicant bears the burden of proof on a balance of probabilities. I have reviewed all the evidence but refer to it only to the extent needed to explain my decision.
10. In June 2018 the respondent contacted the applicant and asked him to complete some drywall work on his mobile home.
11. The applicant attended at the mobile home and provided a quote of \$2,500 for 2,200 square feet of drywall that needed to be taped and finished.
12. The parties negotiated the price and agreed on \$2,250 for the 2,200 square feet of work.
13. The scope of work involved applying drywall to 2 bedrooms, 1 bathroom, a living room and a kitchen.
14. On June 28, 2018, the applicant picked up half of the materials and started the job. He worked on the drywall over the next several days. A few days later, the respondent gave him half the money because the drywall work was half complete.
15. On July 2, 2018 the applicant coated the drywall and returned to do a final sand on July 5, 2018. He applied some touch ups on July 6, 2018.
16. On July 6, 2018, the applicant arrived at the mobile home and found that the respondent had circled about 10 issues in each room which he wanted touched up. The applicant said he would return on Monday July 9 to retouch these areas. The respondent said he would pay the rest of the money once the job was complete.

17. On July 9, 2018 the applicant completed the touch ups.
18. On July 10, 2018 the applicant missed a call from the respondent. The respondent left a voice mail saying he would have to bring someone else in to fix the drywall work, so he would not be paying the balance owed to the applicant.
19. The respondent did not pay the applicant any other money.
20. The respondent says that the applicant failed to use concrete fill or to do multiple coats of mud in the drywall work.
21. The applicant says he did use concrete fill that takes only 90 minutes to dry, enabling him to put tapes on the same day. He says he applied multiple coats of drywall mud, then allowed it to dry, returned to sand it and put a final coat of mud on top.
22. The respondent said that he would have to pay someone else to complete the unsatisfactory drywall work. However, he did not provide any evidence from a second drywaller commenting on the work completed by the applicant.
23. The respondent did provide invoices in which he itemizes his own time spent on drywall work. He filed photographs in evidence, which he says show his own additional work.
24. The applicant's photographs show that he completed drywall work throughout the mobile home.
25. Because the lighting is different in the applicant's photographs versus those of the respondent, I am unable to determine whether there were defects in the applicant's work or if significant additional drywall work was required after the applicant stopped work. I was not provided with an opinion from an independent drywaller saying the applicant's work was substandard, considering the scope of work.
26. The respondent says he had 3 other people review the work and they agreed it was not satisfactory. The respondent did not provide names or statements from any of

these people. Due largely to this discrepancy, I prefer the applicant's evidence about the drywall work and find it was completed in a satisfactory manner.

27. I find that the respondent owes the applicant the remaining \$1,125 for the drywall job.
28. 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 \$125 in tribunal fees.

## **ORDERS**

29. Within 30 days of the date of this order, I order the respondent to pay the applicant a total of \$1,261.50, broken down as follows:
  - a. \$1,125 as a payment due for the drywall work completed,
  - b. \$11.50 in pre-judgment interest under the *Court Order Interest Act*, from the July 10, 2018 when the work was completed to the date of this decision, and
  - c. \$125 for in tribunal fees.
30. The applicant is entitled to post-judgment interest, as applicable.
31. 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.
32. 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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Julie K. Gibson, Tribunal Member