



Civil Resolution Tribunal

Date Issued: March 7, 2019

File: SC-2018-005054

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sieb v. Gandy Installations LTD.*, 2019 BCCRT 279

B E T W E E N :

Samuel Sieb

APPLICANT

A N D :

Gandy Installations LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Julie K. Gibson

INTRODUCTION

1. The applicant Samuel Sieb says the respondent Gandy Installations LTD. improperly installed an air conditioner in his home, causing water damage to the basement. He claims his \$761.25 restoration costs associated with the flood.

2. The respondent says that there was a blockage in the main drainage of the applicant's home, unbeknownst to it. The respondent says the applicant was unaware of the blockage until the air conditioner had been running for several hours. The respondent says a drain inspection is not part of standard air conditioner installation. It says it is not responsible for the flood or restoration. The respondent asks that the dispute be dismissed.
3. The applicant is self-represented. The respondent is represented by principal or employee Taylor Gandy.

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.

ISSUES

8. The issues in this dispute are
 - a. whether the respondent negligently installed the air conditioner in the respondent's home, such that it caused the basement flood, and
 - b. if so, what is an appropriate remedy?

EVIDENCE AND ANALYSIS

9. This is a civil claim where the applicant bears the burden of proof on a balance of probabilities. I have reviewed all of the evidence but refer to it only to the extent necessary to explain my decision.
10. To succeed in a claim for negligence, an applicant must show that a duty of care was owed by the respondent, that the respondent fell below the required standard of care in fulfilling the duty, that the applicant's loss or damages were reasonably foreseeable, and that the failure caused the applicant's loss.
11. In summer 2016 the respondent installed a furnace and a Lennox Elite Series XC14 air conditioner (XC14) at the applicant's home.
12. The next evening, the applicant had flooding in their basement. The applicant says the flooding was from the "air conditioner drain". The respondent says the more

likely explanation is that the main house drainage backed up, due to a pre-existing blockage.

13. The applicant says he phoned someone at the respondent's office to complain. The respondent did not agree that the flood was due to improper air conditioner installation.
14. The central issue is whether the respondent's failure to check the drainage before installation fell below the reasonable standard of care for installing this type of air conditioner. For the reasons given below, I find that choosing a site with adequate drainage is a reasonable standard of care, the standard does not extend to testing that drainage's function. That is, it is not a requirement that the air conditioning installer pour water down the home drainage system to check for blockages.
15. The applicant filed an invoice from Canada Restoration Services in evidence. The invoice describes work done on August 25, 2016 to decontaminate and dehumidify an area of the applicant's property, at a total cost of \$761.25.
16. While I accept that a flood occurred, the applicant provided no evidence that the flood was due to improper installation of the air conditioner. He did not provide evidence of Canada Restoration Services' opinion about the leak's source or have any plumbing or air conditioning installers comment on the respondent's installation. The applicant did not provide evidence from anyone who repaired an air conditioner drain line blockage, which he should have been able to do if that was the cause of the problem.
17. The applicant provided two air conditioner installation manuals, for units other than the one that was installed in his home. One of these manuals recommends that drain piping be installed to ensure proper drainage, and the other says that the installer must choose an installation site where "condensate water can be properly drained".
18. The respondent filed a copy of the installation manual the XC14 they installed at the applicant's property. These instructions do not mention testing drainage prior to

installation. They say an owner should check the indoor drainage line for obstructions monthly, after installation. I find that this manual contains the applicable installation instructions for the purposes of this dispute.

19. The respondent also filed a series of informal online comments made by various people working in air conditioning installations. Most of these comments were to the effect that although choosing a site with adequate drainage is important, there is no standard requiring testing of the drainage of the home prior to installing an air conditioning unit.
20. The respondent provided evidence that the hot water heater was already draining to this area, suggesting that it was providing suitable drainage.
21. The respondent says there was a sufficient floor drain in the basement for the unit being installed. It assessed, and I find, that the site was appropriate for installation as a result.
22. The applicant says the respondent should have ensured there was sufficient drainage for the air conditioner prior to installing it. He says he would not expect the respondent to fix a drainage issue, but that they should have identified and alerted him to a problem.
23. I disagree. The applicant has not provided evidence that the standard of care to install this type of air conditioner requires drainage testing prior to installation. I find that the respondent took appropriate steps to ensure the installation site had suitable existing drainage, as evidenced by a work sheet completed at the time of installation that shows that the drainage path, to the floor drain, was considered prior to installation. The applicable instruction manual does not make drainage testing at the time of installation a requirement.
24. In summary, the applicant has also failed to prove, on a balance of probabilities, that the cause of the flooding was the air conditioner installation or drain. He provided scant details about the flood itself, and no opinions from anyone trained in air conditioner installation, plumbing or restoration work. When the respondent

asked for details of the flood in an email exchange, the applicant did not provide them. He filed no evidence of his communications with the respondent showing otherwise.

25. For these reasons, I find the applicant has not met the burden of proving his claims and I dismiss them.

26. 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. As the applicant was unsuccessful, I find he is not entitled to reimbursement of tribunal fees.

ORDER

27. I dismiss the applicant's claims and this dispute.

Julie K. Gibson, Tribunal Member