



Civil Resolution Tribunal

Date Issued: May 31, 2019

File: SC-2019-001794

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *CAMPBELL et al v. ELDORADO UPHOLSTERY LTD.*, 2019 BCCRT 664

B E T W E E N :

KENNETH CAMPBELL AND ILEANE GUEST

APPLICANTS

A N D :

ELDORADO UPHOLSTERY LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This is a dispute about work done on a boat. The applicants KENNETH CAMPBELL and ILEANE GUEST, say that the respondent, ELDORADO UPHOLSTERY LTD., performed work on their boat that involved poor workmanship. They seek compensation of \$1,150.00. The respondent denies that its work was of poor quality or that it owes the applicants the damages claimed.

2. The applicants are represented by Kenneth Campbell. The respondent is represented by its principal.

JURISDICTION AND PROCEDURE

3. 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.
4. 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.
5. 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.
6. Under tribunal rule 9.3(2), 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

7. The issue in this dispute is whether the respondent must pay the applicants \$1,150.00 as compensation for poor workmanship.

EVIDENCE AND ANALYSIS

8. In a civil dispute such as this, an applicant bears the burden of proof on a balance of probabilities. The parties provided evidence and submissions in support of their respective positions. While I have considered all of this information, I will refer to only that which is necessary to provide context to my decision.
9. In August of 2018, the parties agreed that the respondent would construct an enclosure for the applicants' boat. The August 27, 2018 work order describes the job as "convertible top, enclose as per discussed". The details of the specifications were not documented. The work was completed in September of 2018.
10. In January of 2019, the applicants contacted the respondent to advise of issues they were having with the respondents' work. Two employees of the respondent attended the applicants' home to view the boat and discuss the issues. The parties made arrangements for the applicants to bring the boat to the respondent's shop so that modifications could be made.
11. The applicants decided not to have the modifications made by the respondent, but instead had them done by another vendor. The applicants say that the respondent did not sew the canvas properly, left out materials, and incorrectly manufactured the frame. The applicants say that the respondent admitted to poor workmanship on the project. They seek an order for compensation of \$1,150.00, which they say they incurred to address issues created by the respondent.
12. The respondent says that its work was of good quality and denies that it admitted to poor workmanship. It says that it had agreed to make adjustments requested by the applicants, but the applicants did not permit it to do so and demanded that its

employees never contact them again. The respondent says that the adjustments the applicants wanted would not have cost \$1,150.00.

13. As noted above, the applicants allege that the respondent failed to sew the canvas or manufacture the frame properly, and that it left out materials. Based on a January 24, 2019 letter provided in evidence by both parties, I find that the applicants are concerned that stainless steel bars are not covered by material in the rear of the canopy and they are not happy with the appearance of the canvas in 2 locations where it meets the frame. Evidence provided by the respondent suggests that the applicants expected a “boot” of material to wrap around this portion of the frame and the appearance of the finished product is not what they expected.
14. The respondent says that the canopy frame is visible from the back of the boat as the applicants requested as large a viewing window as possible. The respondent says a boot was not part of the original discussion, and is not recommended as it may cause damage to the window plastic.
15. I find that the applicants’ assertion that the respondent admitted to performing poor quality work is not supported by the evidence. Although the applicants engaged another vendor to perform modifications, they did not provide a statement from that vendor or another company to comment on the adequacy of the work performed by the respondent. The respondents provided a letter from an upholsterer who expressed the view that the finished product appeared to be what the applicants asked for. I find that the applicants have not established that their complaints are related to poor workmanship. Further, they have not proven that the respondent failed to complete the work contemplated by the parties’ agreement.
16. I also find that the applicants have not established their claim for damages. The April 18, 2019 quote from another vendor shows a cost of \$1,097.19 for “replacing 2 windows” and “fixing tubing”. It is not clear to me whether this work would address the identified concerns with the enclosure constructed by the respondent, or other unrelated issues. In any event, the amount paid to the other vendor is less than the

\$1,150.00 and the applicants did not provide an explanation for the differing amounts.

17. In summary, while I acknowledge that the applicants may not be entirely happy with the results of the respondent's work, I find that they have not met their evidentiary burden to establish that they incurred the claimed damages as a result of the respondent's poor workmanship. Accordingly, their claims are dismissed.
18. 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. As the applicants were not successful, I dismiss their claims for reimbursement of tribunal fees and dispute-related expenses.

ORDER

19. I dismiss the applicants' claims and this dispute.

Lynn Scrivener, Tribunal Member