



Civil Resolution Tribunal

Date Issued: April 20, 2020

File: SC-2019-009529

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Tran v. Yu*, 2020 BCCRT 425

BETWEEN:

CAO MY HANH TRAN

APPLICANT

AND:

LICHENG YU

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This dispute is about electrical work performed for a residential project. The applicant, Cao My Hanh Tran, says the respondent electrician, Licheng Yu, damaged her home by cutting unnecessary holes that required patching. She also

says the respondent improperly cut a light's metal frame. The applicant claims \$4,000 for associated repairs to her kitchen and living room.

2. The respondent says he only cut necessary holes to comply with "the Canadian Electrical Code". He says the applicant knew that he was only doing electrical work, and that any patching, painting and drywall work would have to be done by someone else. The respondent says the applicant agreed to his cutting the metal frame, in order to fit the applicant's chosen light fixture.
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* (CRTA). 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. Bearing in mind the tribunal's mandate of proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
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. Where permitted by section 118 of the CRTA, in resolving this dispute the tribunal may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

8. I note the applicant makes some allegations about the respondent prematurely starting work in her basement. Since the applicant seeks no remedy for such alleged premature work, I make no findings about it and will not discuss it further. I say the same about the applicant's later submissions about "inadequate" dimmers and his alleged failure to use an oxide-inhibiting compound. Similarly, I do not address submissions about unused materials, which the respondent says he refunded, because these are not part of the applicant's claims or requested remedies. This decision will address only the applicant's claims and requested remedies, which are about whether the respondent unreasonably damaged her home by cutting too many holes in the ceiling, and, whether he improperly cut a metal light frame.

ISSUES

9. The issues in this dispute are:
 - a. Did the respondent electrician improperly cut too many holes in the applicant's home while installing lighting?
 - b. Did the respondent improperly cut a light's metal frame?
 - c. If yes to either or both of the above, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant must prove her claim, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
11. In the summer of 2019, the applicant hired the respondent electrician to install wiring and lights in her home. Based on the evidence before me, the parties did not have a formal written agreement.

12. As noted above, at issue in this dispute are the lights in the kitchen and living room, and holes the respondent cut to accommodate the wiring. Also at issue is a lighting panel in the applicant's kitchen, as the applicant says the respondent improperly cut its metal frame and so now the light fixture does not fit.

Did the respondent unnecessarily cut too many holes for the electrical installation?

13. The respondent says the number of holes he decided to cut were made to ensure all wiring was done in accordance with the applicable electrical code. He specifically says that he had to make enough holes for him to see that there were no hidden wiring/pipes inside the wall and to ensure his wires were going to the right places. To do so, he says he needed to make multiple holes. The respondent says as an electrician, he only agreed to do the electrical work. He says it was up to the applicant to hire other contractors, such as drywallers and painters, to repair the holes.

14. In contrast, the applicant says she has been advised by 2 different licensed electricians that the respondent did not "respect code" when doing his electrical work, and, that the ceiling holes he created were unnecessary. The applicant says the opinions were that these holes resulted from the respondent's "miscalculations and a lack of knowledge on how to perform electrical work". However, the applicant did not provide any electrical opinions critical of the respondent's work. Parties are told to provide all relevant evidence, and the applicant does not explain why she did not provide this expert evidence.

15. I find that the necessary preparation work for an electrical installation, including the number, size, and method of holes to be cut for wiring, is outside ordinary knowledge. I find this issue requires expert opinion from an electrician (see *Bergen v. Guliker*, 2015 BCCA 283). While the tribunal's evidentiary rules are flexible, I am not prepared to accept the applicant's hearsay evidence about what unnamed electricians said about the respondent's work.

16. As an example, the applicant submitted a photo of the 'popcorn' living room ceiling, which shows 9 holes that I accept the respondent cut. I find I cannot rely solely on the applicant's photos as expert evidence that the respondent's electrical work, including the number of holes cut, was substandard. I find the applicant has not proved the holes cut by the respondent were below the applicable professional standard for an electrician.
17. Similarly, to the extent the applicant suggests it, I do not accept the respondent electrician agreed to be responsible for the necessary repair work to the ceiling after his electrical work was completed. There is no evidence before me that the respondent electrician agreed to do such drywalling or painting work. My conclusion is supported by the fact that the applicant agreed in late June 2019 to "look elsewhere" for the drywall and painting work to be done after the respondent had completed his electrical work.
18. Given my conclusions above, I dismiss the applicant's claims related to the holes cut by the respondent, which I note she did not specifically quantify in her overall \$4,000 claim.

Did the respondent improperly cut the applicant's light panel's metal frame?

19. The applicant says the respondent removed her kitchen's original panel lighting, promising that new panels would be better. She says he began to saw off the metal frame in order to fit the 2 new panels, but the new panels did not fit. As shown in the applicant's submitted photo, she later had another electrician remove the panel lighting and replace it with "pod" or pot lights.
20. The respondent says the applicant and her spouse wanted their kitchen panel lights replaced, and so the respondent showed the applicant a 2' x 4' panel light that the applicant agreed to purchase and install. The respondent denies he ever promised or tried to fit 2 panel lights into the kitchen ceiling. The respondent says he told the applicant that 2 of the chosen 2' x 4' lights would not fit. Instead, he says to install

the chosen 2' x 4' light, he had to cut the existing metal frame and plastic light cover, so that the new panel light could fit. The respondent says the applicant agreed to this plan, and did not express any disapproval when she saw the final product. The respondent says the applicant simply changed her mind and wanted pot lights instead.

21. As with the holes issue above, the applicant did not submit any expert evidence that the respondent's approach to the kitchen panel light was below the applicable standard of care. There is no evidence before me that leads me to prefer the applicant's account over the respondent's, in terms of how the kitchen panel lighting decision was made. The fact that the applicant paid the respondent on July 17, 2019 for the associated work, without apparent complaint, favours the respondent's position on this issue. The applicant's photos do not assist me, as while they show a cavity in the ceiling, I cannot tell if that is simply from plastic light covers being removed or if the photos were taken during the pot light replacement work. Also, as noted by the respondent, the final patching/repair work had not yet been done, which I find the respondent was not responsible to do. In the circumstances, I find the applicant has not proved her claim that the respondent improperly cut the kitchen panel's metal frame. Given all of the above, I dismiss the applicant's claims in their entirety.
22. Under section 49 of the CRTA and tribunal rules, as the applicant was unsuccessful I dismiss her claim for reimbursement of tribunal fees. No dispute-related expenses were claimed.

ORDER

23. I order the applicant's claims and this dispute dismissed.

Shelley Lopez, Vice Chair

