



# Civil Resolution Tribunal

Date Issued: July 27, 2020

File: SC-2020-002639

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Nor Renovations Ltd. v. Manuel*, 2020 BCCRT 831

BETWEEN:

NOR RENOVATIONS LTD.

**APPLICANT**

AND:

DARYL MANUEL

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. This is a contract dispute. The applicant, Nor Renovations Ltd. (Nor), installed screens around the respondent Daryl Manuel's home porch in October 2018. Nor claims \$2,693.45 for the outstanding balance on its invoice.

2. Mr. Manuel refuses to pay Nor the outstanding balance because he says Nor did not install the screen Mr. Manuel purchased. Mr. Manuel asks that the dispute be dismissed.
3. Nor is represented by its owner, JB. Mr. Manuel represents himself.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT 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 CRT 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 CRT 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 CRT 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 CRT 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.

## **ISSUES**

8. The issues in this dispute are:

- a. Did Nor install the agreed upon screens and, if not, is Mr. Manuel entitled to a deduction of Nor's invoice?
- b. Must Mr. Manuel pay Nor's invoice and, if so, in what amount?

## **EVIDENCE AND ANALYSIS**

9. In a civil claim, such as this one, Nor must prove its claim on a balance of probabilities. Although Mr. Manuel provided submissions, he provided no evidence, despite having the opportunity to do so. I have reviewed all submissions and evidence, but I will only refer to that which explains my decision.
10. It is undisputed that Nor agreed to install screens on all 4 sides of Mr. Manuel's front porch. The parties agree that Mr. Manuel went to Nor's store, looked at the product on the sales floor, spoke to a salesperson (LG), and signed a contract.
11. I find the September 13, 2018 sales contract contains the terms of agreement between Nor and Mr. Manuel. The contract says Nor will supply and install Suntex 80 screens to enclose Mr. Manuel's exterior room, for a total cost of \$4,722.90. Mr. Manuel paid a \$1,600 deposit, which is noted on the contract.
12. Nor's September 17, 2018 internal work order specifies Suntex 80 screen. Mr. Manuel agrees that he ordered, and paid a deposit for, Suntex 80 screen. He says he specifically told the salesperson that he needed screens with small holes, to keep the tiny bugs out of his porch. Mr. Manuel says normal bug screen holes are not small enough to keep those tiny bugs out.
13. Mr. Manuel says that, when the installer came to his house, he brought screens with holes that were too large. Nor agrees that the installer initially took the wrong product (Tuff Screen) to Mr. Manuel's house. JB says, before the Tuff Screen was installed, he personally took Suntex 80 screen to Mr. Manuel's house to replace the Tuff Screen.

14. It is undisputed that Nor completed the screen installation. Based on Nor's invoice, I find this occurred around October 11, 2018. Based on JB's statement, the September 13, 2018 agreement, and Nor's work order, I find Nor installed Suntex 80 screen around Mr. Manuel's porch.
15. Mr. Manuel says the product Nor installed is not Suntex 80. He says he saw Suntex 80 in Nor's showroom and that is what he purchased. Mr. Manuel says he took a piece of the installed screen into the Nor sales room and "held it up to the Suntex 80" and found that his screen had larger holes than the screen on the sales floor. Mr. Manuel says LG told him that "Suntex 80" was too thick to install as built in screens, and that the screen Mr. Manuel had was the best they could get.
16. Nor says the screen in their show room was Suntex 90, with smaller holes than Suntex 80. Nor says LG told Mr. Manuel Suntex 90 is too thick to be installed in a screen enclosure. Nor says LG told Mr. Manuel that the thickest screen with the smallest holes they could install around the porch was Suntex 80, which was similar to but not the same as Suntex 90.
17. Based on JB's statement I find the screen in Nor's showroom was Suntex 90. I find it likely that Mr. Manuel believed the Suntex 80 he ordered was the same screen that he saw in the showroom. Mr. Manuel essentially argues that Nor misrepresented that the screen it sold him (Suntex 80) was the same screen he saw in the showroom.
18. A "misrepresentation" is an untrue or misleading statement made during negotiations or in an advertisement that has the effect of inducing a reasonable person to enter into the contract (see *Van Beek v. Dodd*, 2010 BCSC 1639). To show negligent misrepresentation Mr. Manuel must show that Nor made an untrue or misleading statement, which Mr. Manuel relied on to enter into the September 13, 2018 agreement.
19. Mr. Manuel does not explain why he thought the screen he purchased (Suntex 80) was the same screen that was in the showroom. He has not proven that Nor

misrepresented the showroom screen as Suntex 80 or otherwise led Mr. Manuel to believe that what he purchased was the same as the showroom screen. Further, while I accept that Mr. Manuel told LG that he wanted a screen with smaller holes to keep out the small bugs, there is no indication that LG assured Mr. Manuel that the screen he purchased would keep out the particular bugs Mr. Manuel was concerned about.

20. Based on Nor's April 30, 2018 estimate I find Mr. Manuel previously asked Nor about roll screens, which are different than full porch enclosures. Nor provided estimates for Suntex 90 (10% open), Suntex 95 (5% open), or Tuff Screen (45% open). Based on JB's statement I also find Mr. Manuel went to Nor's showroom and viewed the screen on the salesfloor around April 30, 2018. Had Mr. Manuel compared the April 30, 2018 invoice to the September 13, 2018 contract, he would have seen that the porch enclosure screen was different than the roll screen he initially asked about.
21. I do not find Nor made any untrue or misleading statement that led Mr. Manuel to believe the screen he purchased was the same as the screen in the showroom. I also do not find Nor made any untrue or misleading statement about whether the screen Mr. Manuel purchased (Suntex 80) would keep the small bugs out of his porch. On balance, I find Nor did not negligently misrepresent the Suntex 80 screen sold to Mr. Manuel. I find Nor did not breach the September 13, 2018 contract to install Suntex 80 screen on Mr. Manuel's porch. I find Nor is entitled to payment in full for the work done.
22. The parties agree that Mr. Manuel was unhappy with the screen installation and that Nor credited Mr. Manuel \$429.45 toward the balance of the invoice, as identified in Nor's October 26, 2018 invoice. Based on Nor's May 15, 2020 statement, I find the outstanding invoice balance on the invoice is \$2,693.45, the amount claimed in this dispute.

23. Nor did not claim contractual interest. The *Court Order Interest Act* applies to the CRT. Nor is entitled to pre-judgment interest on the \$2,693.45 debt from October 26, 2018, the date of the invoice, to the date of this decision. This equals \$49.80.
24. Under section 49 of the CRTA and tribunal rules, the CRT 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 Nor is entitled to reimbursement of \$125 in CRT fees. No dispute-related expenses were claimed.

## ORDERS

25. Within 30 days of the date of this order, I order Mr. Manuel to pay Nor a total of \$2,868.25, broken down as follows:
- a. \$2,693.45 as payment for the balance of the October 26, 2018 invoice,
  - b. \$49.80 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125 in CRT fees.
26. Nor is entitled to post-judgment interest, as applicable.
27. Under section 48 of the CRTA, the CRT 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 CRT's final decision. The Minister of Public Safety and Solicitor General has issued a Ministerial Order under the *Emergency Program Act*, which says that tribunals may waive, extend or suspend a mandatory time period. The CRT can only waive, suspend or extend mandatory time periods during the declaration of a state of emergency. After the state of emergency ends, the CRT will not have this ability. A party should contact the CRT as soon as possible if they want to ask the CRT to

consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.

28. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT 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 CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Sherelle Goodwin, Tribunal Member