



Civil Resolution Tribunal

Date Issued: May 18, 2021

File: SC-2020-009261

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ris v. Manuel*, 2021 BCCRT 534

B E T W E E N :

RALPH TERRY RIS and PATRICIA JANE RIS

APPLICANTS

A N D :

FAITH ELEANOR MANUEL

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicants, Ralph Terry Ris and Patricia Jane Ris, bought a home from the respondent, Faith Eleanor Manuel.

2. Ms. Manuel agreed in the contract of purchase and sale to include a \$2,500 “flooring allowance” in the statement of adjustments. After the sale completed, the Rises realized Ms. Manuel did not include the flooring allowance. The Rises seek \$2,500 from Ms. Manuel.
3. Ms. Manuel says the parties agreed on a lower purchase price to reflect the flooring issue. She says the Rises are not entitled to any further adjustments.
4. Mr. Ris represents the Rises. Ms. Manuel represents herself. For the reasons that follow, I find Ms. Manuel must pay the Rises \$2,500 for the flooring allowance.

JURISDICTION AND PROCEDURE

5. 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). Section 2 of the CRTA states that 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 the dispute’s parties that will likely continue after the CRT process has ended.
6. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, the parties in this dispute call into question each other’s credibility. Credibility of witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. In *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. In the circumstances of this dispute, I find that I am able to assess and weigh the evidence and submissions before me. Bearing in mind the CRT’s mandate that includes proportionality and prompt resolution of disputes, I decided to hear this dispute through written submissions.

7. Section 42 of the CRTA says 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.
8. 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 CRT considers appropriate.

ISSUE

9. The issue in this dispute is whether Ms. Manuel agreed to pay the Rises a \$2,500 flooring allowance despite the parties' completed purchase and sale at a lower price.

EVIDENCE AND ANALYSIS

10. As the applicants in this civil dispute, the Rises must prove their claim on a balance of probabilities. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
11. It is undisputed that on May 4, 2020, the Rises and Ms. Manuel entered into a contract of purchase and sale for Ms. Manuel's home (contract). The completion date was June 29, 2020.
12. On page 5 of the contract, Ms. Manuel agreed to provide the Rises with a \$2,500 flooring allowance to be credited on the statement of adjustments. The adjustment date was June 30, 2020.
13. The Rises say the flooring allowance was added to the contract because Ms. Manuel acknowledged that the living room and den carpets were in disrepair and needed replacement. Ms. Manuel does not dispute this explanation for the allowance, so I accept it.

14. On May 14, 2020, the parties completed an addendum to the contract that reduced the purchase price by \$2,000, from \$667,500 to \$665,500.
15. A lawyer prepared a buyer's statement of adjustments for the Rises and a seller's statement of adjustments for Ms. Manuel. The Rises say they did not notice until August 2020 that Ms. Manuel failed to pay the \$2,500 allowance.
16. Both statements of adjustments say in note 2 that errors or omissions discovered after closing will be adjusted directly between the parties.
17. The Rises say they negotiated the price reduction due to the findings contained in a May 14, 2020 inspection report. The report, a copy of which is in evidence, indicated problems with the floor structure. It recommended adding hangers in the crawlspace to prevent further joist movement over the years. It also said floor levelling would be required in some areas when flooring is updated. The Rises say that based on the floor structure issue identified in the report, the parties agreed to the \$2,000 purchase price reduction in the May 14, 2020 addendum.
18. Ms. Manuel says the May 14, 2020 addendum to the contract simply "confirms the purchase price reduction referred to on page 5 of the [contract]." Thus, she says the Rises received everything they were entitled to. Ms. Manuel does not explain the \$500 difference between the \$2,500 flooring allowance and the \$2,000 purchase price reduction.
19. Based on the inspection Report and the Rises unchallenged evidence about the carpets, I find the \$2,000 price reduction was for the floor structural issue and the \$2,500 flooring allowance was for the worn carpets. I find these are separate issues.
20. Importantly, the May 14, 2020 addendum said all other terms and conditions in the contract remained the same. Therefore, the term that Ms. Manuel would provide a \$2,500 flooring allowance in the statement of adjustments remained in effect and binding on the parties. So, by not paying the \$2,500 flooring allowance, I find Ms. Manuel breached the contract.

21. Upon proof of a breach of contract, the non-breaching party is entitled to the difference in value between what they bargained for and what they received. Thus, I find Ms. Manuel must pay the Rises the claimed \$2,500.
22. The *Court Order Interest Act* applies to the CRT. The Rises are entitled to pre-judgment interest on the \$2,500 from the adjustment date, June 30, 2020 to the date of this decision. This equals \$10.06.
23. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I find the Rises are entitled to reimbursement of \$150 in CRT fees. They did not claim any dispute-related expenses.

ORDERS

24. Within 14 days of the date of this order, I order Ms. Manuel to pay the Rises a total of \$2,660.06, broken down as follows:
 - a. \$2,500.00 in damages,
 - b. \$10.06 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$150.00 in CRT fees.
25. The Rises are entitled to post-judgment interest, as applicable.
26. 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 Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is expected to be in effect until 90 days after the state of emergency declared on March 18, 2020 ends, but the Province may shorten or extend the 90-day timeline at any time. 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.

27. 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.

Micah Carmody, Tribunal Member