



# Civil Resolution Tribunal

Date Issued: February 24, 2022

File: SC-2021-004782

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Colonial Countertops Ltd. v. K.O.A.D. Construction Ltd.*, 2022 BCCRT 204

B E T W E E N :

COLONIAL COUNTERTOPS LTD.

**APPLICANT**

A N D :

K.O.A.D. CONSTRUCTION LTD. and CLIFFORD LESLIE HENZIE

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

1. The applicant, Colonial Countertops Ltd. (Colonial), claims \$4,940.25 as payment for its manufacture and installation of countertops. The named respondents are K.O.A.D. Construction Ltd. (KOAD) and Clifford Leslie Henzie.
2. As discussed below, KOAD did not participate and is in default. Mr. Henzie denies responsibility for the claim.
3. Colonial is represented by an employee. Mr. Henzie is self-represented.

## **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. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find I can fairly hear this dispute based on the submitted evidence and through written submissions.
6. Under CRTA section 42, 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 CRTA section 118, in resolving this dispute the CRT may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

## **ISSUE**

8. The issue is whether Colonial has proved the respondents owe it \$4,940.25 for the manufacture and installation of countertops.

## **EVIDENCE AND ANALYSIS**

9. In a civil claim like this one, as the applicant Colonial has the burden of proving its claims, on a balance of probabilities (meaning “more likely than not”).
10. KOAD did not file a Dispute Response and so is in default. This means KOAD did not participate in the proceeding at all. Mr. Henzie submitted a Dispute Response saying any money owing is the “homeowner’s” responsibility. He did not explain his relationship with KOAD, if any. Mr. Henzie then chose not to provide any evidence or submissions, despite having the opportunity to do so.
11. Generally, when a party is in default as KOAD is, liability is assumed. However, I decline to assume KOAD’s liability here. This is because Colonial submitted no evidence at all to support its claim. Colonial did not explain the respondents’ respective roles in the alleged transaction.
12. More significantly, Colonial’s claim description lacks any detail at all, as it only says, “manufacture and install countertops”. Colonial did not describe who ordered the countertop and when, who paid for it, and as noted provided no evidence such as a quote or invoice. Colonial also did not address Mr. Henzie’s Dispute Response comment about the homeowner or explain what their role may be. Colonial’s only submission is that it is “looking for payment on a countertop that we manufactured and installed. No resolution has been presented”.

13. Parties are told by CRT staff to provide all relevant evidence, and here CRT staff sent reminders to the parties about the opportunity to do so. Given the extremely limited description in Colonial's claim and submission, which is unsupported by any evidence, I find its claim against the respondents is unproven. I dismiss Colonial's claim.

14. Under section 49 of the CRTA and the CRT's rules, a successful party is generally entitled to reimbursement of their CRT fees and reasonable dispute-related expenses. Colonial was unsuccessful and so I dismiss its claim for CRT fee reimbursement. The respondents did not pay CRT fees and no dispute-related expenses were claimed.

## **ORDER**

15. I dismiss Colonial's claims and this dispute.

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Shelley Lopez, Vice Chair