



# Civil Resolution Tribunal

Date Issued: April 27, 2022

File: SC-2021-008331

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Landry v. Ramsey*, 2022 BCCRT 488

BETWEEN:

CHRISTIAN LANDRY

**APPLICANT**

AND:

DEVIN RAMSEY

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Shelley Lopez, Vice Chair

## INTRODUCTION

1. This dispute is about a painting contract. The applicant, Christian Landry, says the respondent, Devin Ramsey, owes an outstanding \$2,940 balance. Mr. Landry says

he and Mr. Ramsey “parted ways” before the contract’s end due to disagreements about the consequences of other trades’ work. Mr. Landry claims the \$2,940.

2. Mr. Ramsey says Mr. Landry quit the job before completion and painted only 2 of the 6 rooms Mr. Landry was supposed to paint. Mr. Ramsey says he owes nothing further, noting that Mr. Landry left deficiencies Mr. Ramsey says he paid to have repaired. Mr. Ramsey did not file a counterclaim.
3. The parties are each 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). CRTA section 2 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.
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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
6. CRTA section 42 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.

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 CRT considers appropriate.

## **ISSUE**

8. The issue in this dispute is whether Mr. Ramsey owes Mr. Landry the claimed \$2,940 invoice balance for a residential painting contract.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, as the applicant Mr. Landry must prove his claims on a balance of probabilities (meaning “more likely than not”). I have read all the parties’ submitted evidence and arguments but refer only to what I find relevant to provide context for my decision.
10. The parties did not have a formal written contract. It is undisputed Mr. Landry’s home had 6 rooms to be painted, including ceilings, walls, shelves, doors, and trim. On July 24, 2019, Mr. Landry emailed Mr. Ramsey a painting quote for the “first phase (everything included except window and walls)”, for a total of \$5,000. The quote set out a break-down of pricing for doors, frames, baseboards, and so on.
11. On July 25, 2019, Mr. Landry emailed Mr. Ramsey a further quote he describes as being for the 2<sup>nd</sup> phase, for a total of \$6,100. Again, the quote set out a break-down of pricing for preparation and painting of “windows” (I infer this is window frames), columns, railings, and frames, and the walls. I find the above 2 quotes comprised the parties’ contract. Together, based on the quotes the total fixed price for the entire job was \$11,100.
12. The parties do not say when Mr. Landry did the work but given the other chronology I infer it was sometime between August and November 2019. On November 24, 2019, Mr. Landry issued a \$5,940 invoice. It reflected a \$3,000 payment made on

August 29, 2021, with a \$2,940 balance “due immediately”. The \$3,000 payment is supported by banking records in evidence.

13. On December 11, 2019, after Mr. Landry had left the job, he emailed Mr. Ramsey with copies of the above quotes and wrote he was charging a total of \$5,940, for the following listed items (my added comments are in italics below):
  - a. \$3,060, “in whole” for the ceiling, floor covering, 37 shelves, 3 French doors, 17 doors, 2 dado (wainscoting). (The quote was: \$1,800 for the ceiling, \$300 for floor covering, \$385 for 37 shelves, \$150 for 3 French Doors, \$425 for 17 doors, and \$200 for 2 dado. Mr. Landry does not provide a breakdown for the \$3,060 figure.)
  - b. \$840 for the windows. (This is 22% of the \$3,750 total windows quote.)
  - c. \$490 for the door frames. (This is 58% of the \$850 quote for all frames.)
  - d. \$550 for the baseboard. (This is 92% of the \$600 quote for baseboards.)
  - e. \$1,000 for the walls. (This is 50% of the \$2,000 quote.)
14. As noted, Mr. Landry claims \$2,940, after deducting the \$3,000 payment from his \$5,940 invoice.
15. Mr. Ramsey says Mr. Landry completed only 2 of the 6 rooms and left deficiencies that require the work to be re-done. In contrast, Mr. Landry denies deficiencies and says he completed about 80% of the job but charged Mr. Ramsey only 71% of the contract price. I cannot reconcile either the 70% or 80% figures with the percentages or figures described above. Elsewhere, Mr. Landry also says there was “only 40 hours of work left to do” but as noted the parties’ contract was not based on an hourly rate.
16. Mr. Landry says the parties ended the contract and his work on the job by mutual agreement. While not entirely clear, it appears Mr. Landry blames the parties’ dispute over whether the floor finish was defective (and preventing paint-drip clean-

up) as being the basis for their contract ending. In contrast, Mr. Ramsey said Mr. Landry quit without completing the job and denies any agreement about it. Mr. Ramsey denies his floor's finish was defective.

17. First, it is clear the parties' agreement was based on a fixed price and was not based on time and materials. Second, Mr. Landry submitted no supporting evidence, such as contemporaneous texts or emails, that the parties mutually agreed to end the contract with Mr. Landry getting paid despite not having painted all of the agreed areas. I find there was no such agreement that Mr. Landry would be paid anything for work that was not completed. I also find Mr. Ramsey does not have to pay for proven deficiencies that must be repaired. More on that below.
18. I find Mr. Landry bears the burden of proving the amount of work he completed, given the job was a fixed price contract rather than a time and materials contract. In other words, I find Mr. Landry's claim is based on what is known in law as *quantum meruit*, meaning value for the work done.
19. However, when a customer alleges that a contractor's work was below a reasonably competent standard, the customer (here Mr. Ramsey) must prove the deficiencies (*Absolute Industries Ltd. v. Harris*, 2014 BCSC 287, at paragraph 61). Generally, expert evidence is required to prove a professional's work was below a reasonable standard (see *Bergen v. Guliker*, 2015 BCCA 283). The 2 exceptions to this rule are when the deficiency is not technical in nature or where the work is obviously substandard (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196, at paragraph 112).
20. I turn to the evidence before me. Mr. Ramsey submitted a November 15, 2019 invoice from CertaPro Painters (CertaPro) showing Mr. Ramsey had paid \$5,666.33 for painting in his home on a time and materials basis. The invoice is not particularly detailed but reflects some cabinet door work along with other unspecified painting work. There is nothing in this invoice that is critical of Mr. Landry's work.

21. However, Mr. Ramsey also submitted an undated letter from Ian Merner with CertaPro, which sets out deficiencies and incomplete work left behind by Mr. Landry. This included “sprayed trim but overspray on all walls which were in a different color and sheen which would then need to be sanded and sealed and 2 finish coats in the correct product”. Mr. Merner wrote that the wall areas that “were started” were substandard, such as by painting from the bottom up and ending partway up the wall, leaving a “hard end line”. Mr. Merner wrote the work needed to have the “trim touched up and all the walls repainted properly and sanded prior to remove the hard line”.
22. Mr. Merner says he is CertaPro’s sales manager and has been a professional in the painting trade since 1993. I accept Mr. Merner is qualified as an expert under the CRT’s rules to give an opinion about the quality of Mr. Landry’s painting work. I admit that opinion as expert evidence. I do not accept Mr. Landry’s unsupported assertions that the opinion is biased because the author is allegedly friends with Mr. Ramsey or because CertaPro did the repair work. I say this in part because photos in evidence show what I find is obviously incomplete painting on various walls in the kitchen and living room. I find this is consistent with CertaPro’s description of a “hard end line”.
23. Further, other photos show some paint on the hardwood floor, which I find is an obvious deficiency. I do not accept Mr. Landry’s unsupported assertion the paint can easily be removed. As noted, Mr. Landry alleges the floor’s finish was defective such that he could not readily remedy the paint drips. There is no evidence before me to support that alleged floor defect and I do not accept it.
24. Mr. Landry submitted no contrary expert opinion about the quality of the work he completed. I do not accept Mr. Landry’s own opinion as he is not neutral given he is a party to the dispute. Based on the CertaPro’s opinion, and my own observation from the photos, I find it likely Mr. Landry’s paintwork on the walls needed to be completely redone, including preparation/sanding work. Similarly, based on CertaPro’s opinion, all of the trim, which I infer means baseboards, dado or

wainscoting, and doorframes, needed to be touched up. Given the paint on the floor, I find the “floor covering” work was inadequate. In other words, I find these are all proven deficiencies.

25. On the one hand, there is arguably no evidence that Mr. Landry failed to adequately paint the ceiling, windows, doors, and shelves. Based on Mr. Landry’s \$5,940 invoice and December 11, 2021 email, these items total \$3,600. Mr. Ramsey already paid \$3,000. However, the evidence shows Mr. Landry left paint on Mr. Ramsey’s floor that Mr. Ramsey had to have fixed, though I acknowledge he did not provide an invoice showing what he paid for that repair. Based on Mr. Merner’s opinion and CertaPro’s invoice, Mr. Ramsey likely paid far more than \$600 to fix the deficiencies and complete the work that I find Mr. Landry is charging for.
26. On balance, I find Mr. Landry has not proved he is entitled to any further payment. So, I dismiss his claim.
27. 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. As Mr. Landry was unsuccessful, I dismiss his claim for reimbursement of CRT fees. Mr. Ramsey did not pay fees and no dispute-related expenses were claimed.

## **ORDER**

28. I dismiss Mr. Landry’s claim and this dispute.

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Shelley Lopez, Vice Chair