



# Civil Resolution Tribunal

Date Issued: May 2, 2022

File: SC-2021-008212

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Floorica Construction Ltd. v. Hamidi*, 2022 BCCRT 508

**B E T W E E N :**

FLOORICA CONSTRUCTION LTD.

**APPLICANT**

**A N D :**

WAHID HAMIDI

**RESPONDENT**

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**REASONS FOR DECISION**

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Tribunal Member:

Shelley Lopez, Vice Chair

## **INTRODUCTION**

1. This dispute is about payment for flooring services. The applicant, Floorica Construction Ltd. (Floorica), supplied and installed flooring for the respondent, Wahid Hamidi. Floorica claims \$3,292, the amount it says is outstanding.
2. Mr. Hamidi says Floorica installed a thinner floor than what he ordered, which Floorica admits was done by mistake but says it is a minor issue. As discussed below, Mr. Hamidi also says Floorica is attempting to charge him more than what the parties agreed.
3. Floorica is represented by its owner, Bassem El-Helou. Mr. Hamidi 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). 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 Floorica is entitled to payment of the claimed \$3,292 for its flooring work.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, as the applicant Floorica must prove its 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. I note Floorica chose not to provide any reply submissions despite having the opportunity to do so.
10. The parties did not have a formal written agreement. Floorica advertised its flooring on Facebook Marketplace. Mr. Hamidi submitted an undated text exchange where Floorica confirmed it sold vinyl laminate flooring at \$3.50 per square foot, including installation and underlay.
11. Floorica says nothing about when Mr. Hamidi made his order or when Floorica measured Mr. Hamidi’s house or when it did the work. I accept Mr. Hamidi’s undisputed and detailed evidence that he responded to Floorica’s Facebook ad on September 16, 2021 and attended Floorica’s store on September 17, together with his friend TS. It is undisputed that Mr. Hamidi agreed to buy 600 square feet of flooring.

12. I also accept Mr. Hamidi's evidence that he ultimately chose a luxury vinyl plank flooring with 6.5 mm thickness and preinstalled underlay and agreed to pay \$4.50 per square foot for it, rather than the advertised \$3.50. My reasons follow.
13. Mr. Hamidi says Floorica's representative quoted him 600 square feet of the 6.5 mm vinyl plank flooring at \$4.50 per square foot (\$2,700), plus \$500 for removal and disposal of carpet, plus \$400 for removal and reinstallation of baseboards, for a total of \$3,600 including taxes and delivery. He says Floorica later determined his sub-floor was not level and so the parties agreed Mr. Hamidi would pay \$400 for Floorica to level the floor, for a total of \$4,000.
14. Again, Floorica says nothing about what it quoted Mr. Hamidi, the square footage or the rate or the other charges such as for carpet and baseboard removal and reinstallation. Floorica simply says its invoice reflects the parties' agreement. Floorica issued Mr. Hamidi an invoice dated September 20, 2021 for the flooring work. The invoice shows a \$5,292 total, a \$2,000 deposit payment, and a \$3,292 balance due. As noted, Floorica claims the \$3,292. That invoice details 600 square feet at \$6 per square foot for luxury vinyl plank flooring, \$400 for "fixing the floor" including levelling, \$500 for baseboards, \$200 for delivery, \$100 for vinyl floor moulding, and taxes.
15. Mr. Hamidi argues this is a "doctored" invoice, saying it was just something Floorica created well after the parties' agreement was made. Mr. Hamidi's position is that the parties earlier agreed to the \$4,000 total for the work, including sub-floor leveling. After his \$2,000 deposit, Mr. Hamidi says he owes only \$2,000 under the agreement. However, he says he should not have to pay that because Floorica failed to properly level the sub-floor and admittedly installed flooring thinner than what the parties agreed.
16. Mr. Hamidi also submitted written statements from TS and his other friend ZS, along with audio recordings of their respective visits to Floorica's store. Both of them received quotes from Floorica for the same luxury plank vinyl flooring at less than \$4.50 per square foot. I note Floorica did not respond to this evidence. While quotes

Floorica gave to other customers is not determinative of the parties' agreement, I find it is some evidence that supports Mr. Hamidi's position that his agreement was for \$4.50 per square foot.

17. On balance, I find Floorica has not proved Mr. Hamidi agreed to pay \$6 per square foot for the flooring it installed. I prefer Mr. Hamidi's detailed evidence that the agreed rate was \$4.50 per square foot and that the total agreed price would be \$4,000. After Mr. Hamidi's \$2,000 deposit, this leaves \$2,000.
18. I turn then to the thinner flooring. Mr. Hamidi says the flooring he received is only 4.9 mm thick. I accept this as Floorica does not dispute it and it is supported by a video in evidence that shows the thickness. Floorica argues the difference is minimal and that it cannot be seen or felt. I do not accept this unsupported assertion. I find there likely is a significant difference, as even on Floorica's evidence the thicker flooring cost \$6 per square foot, not \$3.50 or \$4.50.
19. Floorica says the supplier will pay Mr. Hamidi the "difference in price" if Mr. Hamidi sent pictures of the flooring box to the supplier. The difficulty for Floorica is that it (Floorica) is the business that sold Mr. Hamidi the flooring based on a specified thickness. As note, Floorica undisputedly installed a thinner flooring than agreed, which Floorica admits was its error. By supplying Mr. Hamidi with thinner flooring than Floorica agreed to sell him, I find Floorica breached the parties' agreement. Whether Floorica has a claim against its flooring supplier is not a matter before me.
20. Mr. Hamidi's undisputed evidence is that Floorica refused to fix the mistake and install 6.5 mm flooring. I find deducting only the \$600 price difference between the two plank types would be insufficient, as Mr. Hamidi will need to pay someone else to remove the 4.9 mm flooring along with the trim and supply and install 6.5 mm flooring.
21. Mr. Hamidi also says the sub-floor was not properly leveled. The burden is on him to prove this deficiency as he is the one asserting it. He submitted no photos of the floor or any evidence to show it is not level. However, Mr. Hamidi raised this issue in

his Dispute Response filed at the outset of this proceeding and again in his submissions, and Floorica did not address it. On balance, in the absence of any explanation from Floorica I find it likely that the sub-floor was not properly levelled.

22. Given the sub-floor and flooring will need to be re-done and Floorica has refused to fix the mistake, I find Floorica is not entitled to any further payment from Mr. Hamidi. I dismiss Floorica's claim.

23. 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 Floorica was unsuccessful, I dismiss its claim for reimbursement of CRT fees. Mr. Hamidi did not pay CRT fees and no dispute-related expenses were claimed.

## **ORDER**

24. I dismiss Floorica's claim and this dispute.

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Shelley Lopez, Vice Chair