



# Civil Resolution Tribunal

Date Issued: June 2, 2022

File: SC-2021-009330

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Roy's Tile Installation and Decoration Ltd. v. Keyho Construction Ltd.*,  
2022 BCCRT 648

B E T W E E N :

ROY'S TILE INSTALLATION AND DECORATION LTD.

**APPLICANT**

A N D :

KEYHO CONSTRUCTION LTD

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

Chad McCarthy

## INTRODUCTION

1. This dispute is about payment for tiling. The respondent, Keyho Construction Ltd (KC), hired the applicant, Roy's Tile Installation and Decoration Ltd. (RT), to install bathroom tile for a fixed price of \$4,000 plus GST, totaling \$4,200. KC only paid RT \$3,000, because KC says the tile work was deficient and it hired someone else to

complete the work. RT says its work was not deficient, and claims a total of \$1,275.63: \$1,200 for the unpaid work and \$75.63 for material costs.

2. RT is represented by an owner, Yao Liu. KC is represented by an authorized employee or principal.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, 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
5. 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.
6. 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

7. The issue in this dispute is whether RT completed the tile work to a sufficient quality standard, and if so, does KC owe it \$1,275.63 for the unpaid balance owing and material costs?

## EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, RT must prove its claim on a balance of probabilities, meaning “more likely than not.” I have read all the parties’ submissions and evidence, but refer only to the evidence and arguments that I find relevant to provide context for my decision.
9. There was no written contract for the bathroom tile work. As noted, the parties agree that the cost of RT’s tile work was \$4,200, but KC only paid \$3,000. RT also says that KC agreed to pay for tiling materials, including grout that RT purchased at KC’s request, as shown in a \$75.63 receipt in evidence. I find that KC agreed to pay for the grout purchased by RT but did not actually pay, because KC does not deny it.
10. KC says it is entitled to a set-off of \$1,200 because it had to hire another contractor to repair RT’s allegedly deficient work. I find it was an implied term of the parties’ agreement that RT’s tile work would be of reasonable quality (see *Belfor (Canada) Inc. v. Drescher*, 2021 BCSC 2403 at paragraph 18). As the party alleging deficient work, KC bears the burden of proving that RT failed to perform the work in a reasonably professional manner (see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61). Further, expert evidence is normally required to assess the quality of a professional’s work (see *Bergen v. Guliker*, 2015 BCCA 283 at paragraph 124). However, expert evidence is not required when a deficiency is non-technical and within an ordinary person’s knowledge and experience, or when the defects are obviously substandard (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112).

11. KC does not specifically say how RT's work was defective. KC submitted photos with filenames that included "missing grout" and "chipped edge on the tile". I find the photos show small gaps in some tile grout, and some slightly rough tile edges. However, I find the submitted photos do not appear to show significant defects that are obvious and within common understanding.
12. KC submitted a statement from the bathroom's owner, who said that RT did not complete the grouting and did not wipe off excess grout, so KC had to. However, I give little weight to that statement because it is inconsistent with the submitted photos, which I find show no obvious areas of incomplete grouting or excess grout. I find the photos show what appears to be completed tile work, with nothing obviously missing.
13. RT says there were no defects: it needed to leave room for others to apply silicone over the grout without washing off too much grout, and tile edge variations were unavoidable given the quality of the tile KC provided.
14. As noted, I see no obvious defects in RT's tile work, and I find an analysis of the small grout gaps, tile edges, and other aspects of the tile installation involves technical subject matter that is beyond common understanding. So, I find the question of whether the tile installation met a reasonably professional quality standard requires expert evidence to prove. I find none of the submitted evidence qualifies as expert evidence under the CRT's rules. So, I find KC has not met its burden of proving that RT's tile work failed to meet a reasonably professional quality standard.
15. Further, KC does not say how much the alleged deficiencies cost to repair, how long they took, who did them, or specifically what was fixed. I find the evidence before me does not show which repairs were performed, if any. I find there is no evidence supporting a \$1,200 set-off value. Overall, I find KC has not proven it is entitled to a set-off for defective work.
16. I allow RT's \$1,275.63 claim for unpaid work and grout material reimbursement.

### ***CRT Fees, Expenses, and Interest***

17. The *Court Order Interest Act* (COIA) applies to the CRT. I find RT is entitled to pre-judgment interest on the \$1,275.63 owing, reasonably calculated from the October 18, 2021 date KC paid it \$3,000, until the date of this decision. This equals \$3.59.
18. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. RT was successful in this dispute, so I find it is entitled to reimbursement of the \$125 it paid in CRT fees. Neither party claimed CRT dispute-related expenses.

### **ORDERS**

19. Within 30 days of the date of this decision, I order KC to pay RT a total of \$1,404.22, broken down as follows:
  - a. \$1,275.63 in debt,
  - b. \$3.59 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125 in CRT fees.
20. RT is also entitled to post-judgment interest, as applicable.
21. 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.

22. 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.

---

Chad McCarthy, Tribunal Member