



Civil Resolution Tribunal

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File: SC-2021-009522

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Heggs v. Wright*, 2022 BCCRT 689

B E T W E E N :

ASHLEY HEGGS and JOSHUA HEGGS

APPLICANTS

A N D :

ADAM WRIGHT

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about renovation work the respondent, Adam Wright, provided for the applicants, Ashley Heggs and Joshua Heggs. The Heggs say Mr. Wright ended the parties' agreement before completing agreed upon framing and drywall work and caused electrical and drywall damage. They claim \$650 in electrical repair expenses and \$400 for drywall completion and repair.

2. The Heggs also claim \$1,219.50 for a fee they were charged to cancel a custom cabinetry order placed by Mr. Wright. They also claim \$371.68 for their time spent finding contractors and dealing with the cabinetry order.
3. Mr. Wright says he only charged the Heggs for work he completed before he terminated the parties' agreement. He acknowledges that he caused some of the claimed electrical and drywall damage, but says it was minimal damage and that the Heggs told him they would fix it at their own expense. Finally, Mr. Wright says it was the Heggs' choice to cancel the cabinetry contract and so he is not responsible for any cancellation fee.
4. Mrs. Heggs represents the applicants. Mr. Wright represents himself.

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. 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.
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 Mr. Wright is responsible for any of the Heggs' claimed finishing costs, repair costs, cancellation fee or time spent.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one the applicants must prove their claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submissions and weighed the evidence, but only refer to that necessary to explain my decision.
11. It is undisputed that the parties did not have a written contract or agreement for the renovation project. I find their agreement about the renovation is set out in their emails and text messages. It is also undisputed that Mr. Wright and the Heggs are related, as extended family.
12. Emails submitted by Mrs. Heggs show that in March 2021, she asked Mr. Wright for a quote to do some work in the Heggs' new home. The emails also show that, after a meeting, the parties agreed to undertake several projects including opening the primary bedroom closet, removing a kitchen wall, moving kitchen cabinets, and providing "built ins" for several rooms. In a March 24, 2021 email Mr. Wright set out his "pricing" as a \$50 hourly rate, materials at cost with trade discounts, and sub-trades at cost.
13. Based on the parties' email and text messages, and photos submitted by both parties, I find Mr. Wright removed a kitchen wall and reframed part of another kitchen wall

and all the bedroom closets , in late April and early May 2021. This is supported by Mr. Wright's May 16, 2021 invoice to the Heggs, which they undisputedly paid.

14. Based on the parties' emails and the May 16, 2021 invoice, I find the parties had a time and materials contract, rather than a fixed-price contract. In other words, I find Mr. Wright did not agree to complete the listed projects for a specific price. Rather, he agreed to work on the projects and to charge the Heggs his hourly rate plus material costs for doing so. As the Heggs paid the May 16, 2021 invoice, I find they agreed to pay Mr. Wright his hourly rate and material costs for the work he completed.
15. Based on the parties' messages, I find they went back and forth on the proposed "built in" cabinetry several times and that Mr. Wright created various computerized plans for the cabinets. It is undisputed, and the parties' messages show Mr. Wright ordered several cabinet modules from a third-party supplier (Kitch) on July 17, 2021 on behalf of the Heggs. Based on the parties' text messages, I find the Heggs' relationship with Mr. Wright broke down between July 17 and 19, 2021 and, on July 19, 2021 Mr. Wright advised Mr. Heggs he could no longer work with them.

Drywall Work

16. I agree with the Heggs that their photos show rough drywall work and unfinished walls. However, contrary to the Heggs' argument, I do not find Mr. Wright was obliged to finish the drywall work under the parties' agreement, because it was a time and materials contract only. As noted by Mr. Wright, his May 16, 2021 invoice does not show that he billed for finishing work. Rather, he billed to demolish and "build out" the closets and kitchen wall. As Mr. Wright did not charge the Heggs for it, I find he was not obliged to finish the drywall work under the parties' time and materials agreement.
17. The Heggs say their drywaller told them that that Mr. Wright's drywall work was done in the wrong order and used materials incorrectly and so the Heggs had to pay to fix some of Mr. Wright's work. However, they provided no supporting evidence such as a statement from the drywaller they hired. So, I find they have not proven any alleged drywall deficiencies.

18. The parties agree that Mr. Wright scuffed the master bedroom ceiling drywall. Based on the Heggs' photo I find the scuff small and shallow. The Heggs provided no evidence of the cost associated with repairing the minimal amount of damage, or any of the other drywall repairs claimed. So, although I find the Heggs have proven the drywall was scuffed, they have not proven any costs associated with fixing it.
19. I dismiss the Heggs' \$400 claim for drywall repair.

Electrical Repair Expenses

20. The parties agree that Mr. Wright framed the primary bedroom closet in a manner that did not allow room for an electrical box and light switch between the closet and the door. The Heggs say this was Mr. Wright's mistake. Mr. Wright says he told the Heggs that the framing design would result in no room for the electrical box, which he says the Heggs agreed to. The Heggs deny they knew, or agreed to, the lack of electrical box.
21. As noted above, the Heggs must prove it is more likely than not that Mr. Wright did something wrong. They provided no supporting evidence of the parties' agreed framing plan, such as diagrams or specific emails about the bedroom closet dimensions. In the absence of any supporting evidence, I find I have an evidentiary tie and so the Heggs have not met their burden. In other words, I find the Heggs have failed to prove that Mr. Wright framed the master bedroom closet in a way other than what the parties agreed to.
22. The parties also agree that Mr. Wright "nicked" an electrical wire while completing the framing work. Mr. Wright says that he immediately told the Heggs about his mistake, and their electrician friend who was on site when it happened. Mr. Wright says the electrician told him the damage was minimal and agreed to repair the wire.
23. The Heggs deny Mr. Wright's version of events. They say their electrician friend was not there when Mr. Wright was completing his work and did not agree to fix the wire. The Heggs say they hired another electrician, who traced the wire to ensure it was safe, ultimately finding no damage or safety concerns. However, the Heggs provided

no supporting evidence such as a statement from their friend or the hired electrician. So, as above, I find the Heggs have failed to prove that Mr. Wright's nick required any electrical repairs.

24. Overall, I dismiss the Heggs' \$650 electrical repair expenses claim.

Cabinet Order Cancellation Fee

25. As noted, the Heggs claim reimbursement of a \$1,219.50 fee for cancelling the July 17, 2021 Kitch cabinet order. They say they had to cancel the order as they had no one to install the cabinets after Mr. Wright terminated his relationship with them. Based on the July 17, 2021 orders, the cabinet modules consist of basic hinges, boxes, and panels. I fail to see how the Heggs needed Mr. Wright, instead of another contractor or carpenter, to install the Kitch modules. Further, the cabinets were scheduled to be completed by the end of August 2021, and there is no indication this left insufficient time for the Heggs to find another contractor or carpenter.

26. To the extent the Heggs argue they had to cancel the order because Mr. Wright failed to order all the needed pieces to complete the designs, I find such an argument cannot succeed. This is because the Heggs have not shown why they could not add the alleged missing pieces to the order. Emails between Mr. Wright and Hitch show the Heggs proposed changes to their order before cancelling it, so I find they had the opportunity to fix any errors Mr. Wright made in the order with no resultant damage.

27. On balance, I find the Heggs have not proven why Mr. Wright's termination of their agreement caused them to cancel the Hitch order. Even if they had proven it, I would find their damages unproven as they provided no evidence supporting any cancellation fee charged by Hitch or paid by them. Although the Heggs provided what appears to be a spreadsheet, it is unclear who created it and refers to invoiced amounts which do not match the Hitch invoices for Mr. Wright's order. Further, in an email to Mr. Wright, Hitch refers to a possible cancellation fee of \$1,211.98, which is not what the Heggs claimed.

28. I dismiss the \$1,219.50 cancellation fee claim.

Time Spent

29. I also dismiss as unproven the Heggs' \$371.68 claim for their time to find new contractors and deal with the Hitch order. This is because the Heggs provided no evidence supporting how much time and what efforts they made to replace Mr. Wright as a drywaller, hire an electrician, or negotiate with Hitch. Further, they provided no explanation about how they calculated the value of that time. So, even if the Heggs would be entitled to compensation for time spent to find another contractor, I find their damages are unproven. I dismiss this claim.

30. 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. As the applicants were unsuccessful, I find they are not entitled to reimbursement of their CRT fees. As the successful respondent, Mr. Wright paid no CRT fees and claimed no dispute-related expenses.

ORDER

31. I dismiss the Heggs' claims and this dispute.

Sherelle Goodwin, Tribunal Member