



# Civil Resolution Tribunal

Date Issued: October 5, 2022

File: SC-2021-005015

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Willox v. Colling (dba Flawless Paint and Reno 9)*, 2022 BCCRT 1096

B E T W E E N :

KRISTINA WILLOX also known as KRIS WILLOX, KRISTY WILLOX  
**APPLICANT**

A N D :

WILLIAM COLLING doing business as FLAWLESS PAINT AND  
RENO 9  
**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr

## INTRODUCTION

1. Kristina Willox, who is also known as Kris Willox and Kristy Willox, says that she hired William Colling to patch and repaint parts of her home after a flood. Mr. Colling does business as Flawless Paint and Reno 9. Miss Willox claims that Mr. Colling did poor work, did not complete the job, and left behind a mess. She says that she had

to hire someone else to fix and complete the work. She claims \$2,600, an amount that she does not explain.

2. Mr. Colling says that Miss Willox said nothing about any issues with his work after she paid his bill in full. He says he did not have the opportunity to fix any problems. He also says that painting was outside the scope of the parties' contract. He asks me to dismiss her claims.
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). 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.
5. 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. In some respects, both parties of this dispute call into question the credibility, or truthfulness, of the other. In the circumstances of this dispute, I find that I am properly able to assess and weigh the evidence and submissions before me. I note the decision *Yas v. Pope*, 2018 BCSC 282, in which the court recognized that oral hearings are not necessarily required where credibility is in issue. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

6. 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.
7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to pay money or to do or stop doing something. The CRT's order may include any terms or conditions the CRT considers appropriate.

## **ISSUES**

8. The issues in this dispute are:
  - a. Did Mr. Colling complete the contracted work to a reasonable standard?
  - b. Did Miss Willox give Mr. Colling a reasonable opportunity to return to fix any outstanding issues?
  - c. What remedy, if any, is appropriate?

## **EVIDENCE AND ANALYSIS**

9. In a civil claim such as this, Miss Willox as the applicant must prove her case on a balance of probabilities. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision. I note that Mr. Colling did not provide any documentary evidence despite having the opportunity to do so.
10. Neither party provided much information about the background of this dispute. Miss Willox says that she hired Mr. Colling to do "painting, patch work, and ceilings and ceiling tiles" after a June 2, 2021 flood. As noted above, Mr. Colling denies that painting was part of the parties' contract. It is undisputed that the parties did not have a written contract. There are also no written communications about the

contract's scope in evidence. Verbal contracts are enforceable just like written contracts are, but their terms are harder to prove. I return to the contract's terms below.

11. Neither party fully explains what work Mr. Colling did in Miss Willox's house or how long it took. On June 11, 2021, Mr. Colling emailed Miss Willox demanding payment of his outstanding invoice. I infer from context that he had finished working by that point. In a response the same day, Miss Willox said that she was waiting to receive money from an insurance claim. She also said that Mr. Colling had not done "everything we talked about" and had left a mess. She did not specify what he had failed to do. She did not ask him to return to address any outstanding issues. It is undisputed that Miss Willox eventually paid Mr. Colling's outstanding invoice. There is no further written correspondence in evidence.
12. In general, a contractor like Mr. Colling is entitled to be paid for their work once the work is substantially complete. Deficiencies are common in construction work of all kinds. When there are deficiencies or work is incomplete, contractors are generally entitled to a reasonable opportunity to address any outstanding issues. If the owner does not give the contractor that opportunity, they are generally not entitled to claim damages for having the work fixed or completed by another contractor. See *Lind v. Storey*, 2021 BCPC 2, at paragraph 91.
13. So, the first question is whether the work was "substantially complete". Mr. Colling says that he fulfilled his obligations under the contract. Miss Willox says that he only did "half of the work". Miss Willox provided a photo that shows a hole in a ceiling. She says that this was a task that Mr. Colling did not finish. She also provided photos that she says shows the "mess" Mr. Colling left behind. These photos appear to show white flecks and dust on some surfaces.
14. It is undisputed that Mr. Colling did not paint. He says that this is because Miss Willox did not hire him to paint. On balance, I find that Miss Willox has not proven that the parties' contract included painting. There is no objective evidence to support her assertion. In addition, she did not mention the lack of painting in her

June 11, 2021 email. I find that if Mr. Colling had failed to do such an obvious and large part of the contracted work, she likely would have specifically mentioned it.

15. Having reviewed this evidence, I agree with Mr. Colling that the work was substantially complete. Assuming the contract required Mr. Colling to cover the ceiling hole and clean up the mess, I find that these were minor deficiencies. In other words, I find that Mr. Colling was entitled to be paid for his work.
16. As mentioned above, to the extent that there were any deficiencies, Mr. Colling was entitled to a reasonable opportunity to fix them. Mr. Colling says that after Miss Willox paid him, he did not hear anything further from her. There is no evidence to suggest that Miss Willox ever asked Mr. Colling to return to fix any deficiencies or complete any outstanding work, including in her June 11, 2021 email. I note that she started this CRT dispute on June 23, 2021, a short time later.
17. I therefore find that Miss Willox is not entitled to compensation because she failed to give Mr. Colling a reasonable opportunity to address any outstanding issues. For this reason, I dismiss her claims.
18. 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. Miss Willox was unsuccessful, so I dismiss her claim for CRT fees and dispute-related expenses. I order her to reimburse Mr. Colling the \$50 in CRT fees he paid to cancel a default judgment. He did not claim any dispute-related expenses.

## **ORDERS**

19. Within 30 days of the date of this order, I order Miss Willox to pay Mr. Colling \$50 in CRT fees.
20. Mr. Colling is entitled to post-judgment interest under the *Court Order Interest Act*.
21. I dismiss Miss Willox's claims.

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. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Eric Regehr, Tribunal Member