



Civil Resolution Tribunal

Date Issued: November 7, 2022

File: SC-2022-002964

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gillen v. Miles Plumbing Services Ltd.*, 2022 BCCRT 1222

BETWEEN:

CHRIS GILLEN

APPLICANT

AND:

MILES PLUMBING SERVICES LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kristin Gardner

INTRODUCTION

1. This dispute is about alleged deficient plumbing services.
2. The applicant, Chris Gillen, hired the respondent, Miles Plumbing Services Ltd. (Miles), to fix several plumbing issues in his home. Mr. Gillen says that Miles' work was substandard, as it failed to fix any of the issues. Mr. Gillen claims \$786.64, which

includes a \$335.26 refund for Miles' paid invoice and a \$449.40 for his costs of hiring another plumber to fix the original issues.

3. Miles denies that its work was substandard. Miles says it completed the requested plumbing work and everything was working as it should when it left Mr. Gillen's home. Miles says it does not owe Mr. Gillen anything.
4. Mr. Gillen is self-represented. Miles is represented by its owner, Stew Millett.

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.

ISSUES

9. The issues in this dispute are:
 - a. Was Miles' work deficient, and if so, must it refund Mr. Gillen \$335.26 for its work?
 - b. To what extent, if any, is Miles responsible to pay Mr. Gillen \$449.40 in damages?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the applicant Mr. Gillen must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all of the parties' evidence and submissions, but I refer only to what I find is necessary to explain my decision.
11. It is undisputed that Mr. Gillen hired Miles to provide plumbing services. The evidence shows that on February 16, 2022, Mr. Gillen completed an online contact form and stated he was looking for Miles' assistance with the following issues: 1) low water pressure on his fridge, 2) low hot water pressure in his main bathroom, and 3) a broken plug and broken handle in his tub. I find from the evidence before me that the "broken plug" issue refers to a pop-up drain plug in the main bathroom sink.
12. It is undisputed that a Miles plumber attended Mr. Gillen's home on February 24, 2022. Mr. Gillen says that after Miles left, the water flow issues in both his fridge and his bathroom sink were unresolved and the sink drain plug was replaced with the incorrect part. While Miles does not dispute that Mr. Gillen was dissatisfied, it says it properly completed all of the requested work. As neither party references any work to the tub handle, I find Mr. Gillen's complaints are limited to the water pressure and sink drain plug.
13. The parties agree that Mr. Gillen scheduled an appointment for Miles to return and review his complaints on March 1, 2022, and that Miles did not attend at the

scheduled time. Miles says it was simply running behind that day. Mr. Gillen says that Miles never contacted him to advise of the delay, which Miles does not dispute. Mr. Gillen says he decided to cancel the appointment because Miles did not give him any guarantee about when or if a plumber would arrive.

14. Mr. Gillen says he was “left with little option” but to hire a different company, Super Plumber (SP), to complete the work. The evidence shows that Mr. Gillen paid SP \$449.40 on March 4, 2022. Mr. Gillen says that SP’s work completely resolved the water flow issues. Notably, Mr. Gillen does not say that SP fixed his sink drain plug. More on this below.
15. Mr. Gillen says he did not receive an invoice from Miles until a collection agency contacted him. In contrast, Miles says it contacted Mr. Gillen multiple times about its outstanding invoice, though it provided no further details or supporting evidence about its attempts. In any event, it is undisputed that Mr. Gillen ultimately paid Miles’ \$335.26 invoice.
16. Mr. Gillen says he only paid Miles’ invoice so that his credit rating would not be negatively impacted. He says that Miles should refund him because its work to address the water pressure issue was not completed to a professional standard. I find he is essentially arguing that Miles’ work was deficient.
17. When a customer alleges that a contractor’s work was below a reasonably competent standard, the customer (here, Mr. Gillen) 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 fell below a reasonable standard: *Bergen v. Gulliker*, 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: *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112.

18. I first address the water pressure issue. I find that expert evidence is necessary on this issue because the required plumbing work to fix reports of low water pressure is a technical matter that is outside ordinary knowledge.
19. Miles' invoice included the following description of work: repairing the bathroom drain, unclogging the sink, flushing the faucet of debris, inspecting the fridge waterflow, and repairing the tub plug.
20. Miles also provided a March 1, 2022 "Customer Dispute Form", which I find was completed to document Mr. Gillen's complaint and subsequent cancellation of the second appointment. Miles' plumber, WR, included a handwritten explanation of his work on the form, which stated he had detached the fridge water line to inspect the water flow and observed full flow from the hose. WR also stated he had unplugged the bathroom drain, removed debris and hair, and replaced the drain with a "push click drain", as well as removed the aerator from the faucet spout and found some debris. WR concluded that everything worked properly.
21. WR also prepared a July 27, 2022 signed statement for the purpose of this dispute. WR's statement does not provide any additional information about the work he performed, other than saying he advised Mr. Gillen to call "an appliance tech" once he had completed the work. He did not explain why he made this recommendation. WR also stated that he double-checked his work before leaving and that everything was in "working order".
22. Mr. Gillen does not dispute that Miles completed the work set out in its invoice and in Miles' supporting evidence. Rather, his complaint is that Miles failed to sufficiently increase the water pressure in the fridge and bathroom.

23. The difficulty is that Mr. Gillen is asking me to find that Miles' work was deficient based solely on the fact that he was later satisfied with the water pressure after SP completed its work. The only evidence Mr. Gillen provided about SP's work was its March 4, 2022 invoice, which included the following relevant description of its work:

Repair shutoff valve feeding fridge water. Works better through valve but still slow at fridge. Recommend appliance repair person.

Flush out faucet in upper bathroom. Works better now.

Attempt to replace drain body on upper bathroom. Not a standard size and unable to find replacement part...Also there is no overflow making drain options limited.

24. SP's invoice does not say that Miles' work was flawed or that Miles failed to comply with accepted standards in the plumbing industry. It does not explain how the fridge's shut off valve needed repair, how that valve relates to water pressure, or that this was something that Miles should have repaired. It also does not explain how its flushing of the bathroom faucet might have been different from Miles' flushing, or why Miles' flushing did not result in different water pressure.
25. Mr. Gillen provided video evidence of the water flow on his fridge's water dispenser and his bathroom tap before and after SP's work. I note that the recording of the bathroom tap before SP's work had only audio and no video. Nevertheless, based on the audio, I accept Mr. Gillen's submission that the water pressure was lower when the tap was turned to the hot water position. Overall, I find the videos show the water pressure was noticeably higher after SP's work in both the fridge water dispenser and the sink's hot water flow. However, there is no evidence before me about standard water pressure rates for a fridge and bathroom sink, or whether Mr. Gillen's water pressure was below a standard rate after Miles completed its work. I accept that WR believed the fridge water dispenser and sink faucet were working normally when he completed his work. I find that just because SP's later work increased the water pressure does not mean that Miles' work fell below a reasonable standard.

26. In the absence of any expert evidence establishing that Miles' work to address the water pressure failed to meet a reasonably professional standard, I find Mr. Gillen has not proven that Miles' work on the water pressure was deficient.
27. As for the sink drain plug, even if Miles installed one that fit imperfectly, based on SP's invoice, I find it was unlikely that Miles would have been able to install one that fit perfectly in any event. SP's invoice does not state that Miles failed to install the best or most appropriate option available. Under the circumstances, I find Miles' work on the drain plug was not obviously substandard. So, in the absence of expert evidence, I find Mr. Gillen has not proven Miles' drain plug work was deficient.
28. As noted, it is undisputed that Miles completed the work set out in its invoice. There is no suggestion that any of Miles' work was unnecessary, and I find the amount charged was reasonable. So, I find Mr. Gillen is not entitled to any refund of the amount he paid for Miles' invoice.
29. Mr. Gillen did not explain why he claims he should not have to pay Miles and that Miles should also have to pay SP's invoice, so that he effectively would pay nothing for all the plumbing services he received. I agree with Miles' submission that such an award would overcompensate Mr. Gillen. In any event, as I have not found that Miles' work deficient, I find there is no basis to hold Miles responsible for any of SP's invoice.
30. I note that even if I had found Miles' work deficient to the extent that it should have been able to increase the water pressure, I would not have found Miles responsible for SP's invoice. This is because I find SP largely performed different work than Miles, so if Miles had performed that work in the first instance, Mr. Gillen would have paid for it in any event. Further, SP's invoice did not breakdown its time or an hourly rate, so I find I am unable to determine whether SP's invoice was reasonable.
31. For all the above reasons, I dismiss Mr. Gillen's claims.

32. 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. I see no reason in this case not to follow that general rule. As Mr. Gillen was unsuccessful, I find he is not entitled to any reimbursement. Miles did not pay any fees or claim dispute-related expenses, so I make no order.

ORDER

33. I dismiss Mr. Gillen's claims, and this dispute.

Kristin Gardner, Tribunal Member