



# Civil Resolution Tribunal

Date Issued: November 21, 2022

File: SC-2022-002980

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Salomon v. Giangrande*, 2022 BCCRT 1253

BETWEEN:

NATHAN SALOMON

**APPLICANT**

AND:

NINO GIANGRANDE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kristin Gardner

## INTRODUCTION

1. The applicant, Nathan Salomon, purchased a home from the respondent, Nino Giangrande. Mr. Giangrande's business, DRR, undisputedly constructed the home. DRR is not a party to this dispute.

2. Mr. Salomon says that after he moved in, he discovered a chandelier was improperly installed, which he says was a material latent defect and a breach of the parties' contract of purchase and sale (CPS) for the home. Mr. Salomon seeks \$1,798.86 from Mr. Giangrande for the cost to repair the chandelier's installation.
3. Mr. Giangrande says the chandelier only came loose because of extensive roof work Mr. Salomon had done. He also says Mr. Salomon should have put this claim through his new home warranty. Mr. Giangrande denies any responsibility for Mr. Salomon's claim.
4. The parties are each self-represented.

## **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.
9. As noted, Mr. Giangrande says that Mr. Salomon's claim should be dealt with by his new home warranty rather than the CRT. I disagree. Mr. Giangrande did not provide any evidence to support this assertion, such as a copy of the warranty or any agreement that Mr. Salomon would not take this claim to the CRT. I am satisfied that this dispute is a claim for damages that falls within the CRT's small claims jurisdiction under CRTA section 118.

## **ISSUE**

10. The issue in this dispute is whether Mr. Giangrande breached the CPS such that he must pay Mr. Salomon \$1,798.86 to fix the chandelier's installation.

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the applicant Mr. Salomon must prove his claims on a balance of probabilities (meaning "more likely than not"). Mr. Giangrande did not submit any documentary evidence in this dispute, despite having the opportunity to do so. I have read all of the submitted evidence and submissions, but I refer only to what I find is necessary to explain my decision.
12. It is undisputed that Mr. Salomon bought a new home from Mr. Giangrande under the terms of their November 20, 2015 CPS. The CPS says the home was still under construction, and the occupancy permit had not yet been issued. The sale's completion date was December 10, 2015. As noted, Mr. Giangrande's business, DRR, constructed the home, though DRR was not a party to the CPS.
13. Mr. Salomon says that in March 2022, a 75-pound crystal chandelier at the top of a staircase came loose from its mount in the ceiling and was hanging by a single wire. The evidence shows Mr. Salomon hired Westpac Electrical Contractors Ltd.

(Westpac), to repair the chandelier's installation. Westpac's March 23, 2022 invoice stated the chandelier had been incorrectly installed on an electrical box rated for no more than 25 pounds, and the plastic screw slots had broken off.

14. Mr. Salomon also provided a July 14, 2022 supplementary report from Westpac, which stated the chandelier's installation breached section 30-302(5) of the *Canadian Electrical Code*. That section says that lighting fixtures over 23 kilograms must be either supported independently of the outlet box or by a fixture hanger with an integral outlet box suitable for the purpose.
15. Mr. Giangrande admits the chandelier came loose, but he submits it did so several months before March 2022, when Mr. Salomon was having extensive roof repairs completed. He says there were no issues with the chandelier for more than 6 years after it was installed, and that the roofing company should have removed or secured the chandelier before commencing the repairs. Mr. Salomon denies that the chandelier came loose during the roof repairs. Significantly, Mr. Giangrande provided no supporting evidence for his allegation.
16. In any event, I find nothing turns on whether the chandelier came loose during or after the roof repairs because Mr. Giangrande does not dispute that the chandelier was improperly installed in an electrical box that was not rated to support its weight. If the chandelier had been properly installed, I find there likely would have been no need for it to be further secured during roof repairs. Further, I find the chandelier needed to be reinstalled properly for safety reasons once Mr. Salomon discovered the faulty installation, regardless of what caused it to come loose. Therefore, I find it is unnecessary to determine whether the roof repairs contributed to the chandelier coming loose.
17. On the evidence before me, and as Mr. Giangrande does not dispute it, I find that the chandelier was improperly installed, in breach of the *Canadian Electrical Code*.
18. So, is Mr. Giangrande responsible for the chandelier's repair costs?

19. The parties' CPS included a term that Mr. Giangrande as the seller guaranteed at his sole cost and expense, that the building's construction and improvements would be completed in a professional manner and in accordance with the municipality. I find this term was a personal warranty that Mr. Giangrande would ensure the building's construction was completed professionally. I find the building includes the installation of fixtures, such as the chandelier.
20. As the chandelier was undisputedly installed on an electrical box not rated for its weight and in breach of the *Canadian Electrical Code*, I find its installation was not completed in a professional manner. So, under his warranty in the CPS, I find Mr. Giangrande is personally responsible for that deficiency, and he must reimburse Mr. Salomon's cost to fix the chandelier's installation.
21. Mr. Salomon paid Westpac \$1,798.86 to safely re-install the chandelier. Westpac's invoice stated that the chandelier's disconnection and reinstallation was "heavily labour intensive" because it had to remove and reattach each crystal piece individually. I find the photos in evidence support this statement. Overall, I find Westpac's invoice reasonable, and I order Mr. Giangrande to pay Mr. Salomon \$1,798.86.
22. Given that I find Mr. Salomon's claim succeeds because Mr. Giangrande breached his personal warranty in the CPS, I do not have to address whether the chandelier's faulty installation was a material latent defect that Mr. Giangrande was aware as DRR's owner.
23. The *Court Order Interest Act* applies to the CRT. However, Mr. Salomon expressly stated that he did not want to claim interest. Therefore, I make no order for interest.
24. 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 find Mr. Salomon is entitled to reimbursement of \$125 in CRT fees. Neither party claims dispute-related expenses.

## ORDERS

25. Within 30 days of the date of this order, I order Mr. Giangrande to pay Mr. Salomon a total of \$1,923.86, broken down as follows:

- a. \$1,798.86 in damages to reinstall the chandelier, and
- b. \$125 in CRT fees.

26. Mr. Salomon is entitled to post-judgment interest, as applicable.

27. 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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Kristin Gardner, Tribunal Member

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