



# Civil Resolution Tribunal

Date Issued: December 15, 2022

File: SC-2022-001930

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *ACM Glass Ltd. v. Li*, 2022 BCCRT 1345

BETWEEN:

ACM GLASS LTD.

**APPLICANT**

AND:

XIAO MEI LI

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Chad McCarthy

## INTRODUCTION

1. This dispute is about payment for home renovations. The respondent, Xiao Mei Li, hired the applicant, ACM Glass Ltd. (ACM), to perform home renovations. ACM says it completed the renovations as agreed, but Ms. Li did not pay for them. ACM claims \$3,759 for the amount it says is owing. Ms. Li says ACM did not properly complete all

of the renovations as agreed. Ms. Li says she was entitled to withhold payment until ACM fixed certain deficiencies, and she says ACM did not fix anything.

2. Ms. Li is self-represented in this dispute. An employee represents ACM.

## **JURISDICTION AND PROCEDURE**

3. These are the formal 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 ACM completed the agreed work to an appropriate quality standard, and if so, whether Ms. Li owes \$3,759 for it.

## **EVIDENCE AND ANALYSIS**

8. In a civil proceeding like this one, as the applicant ACM must prove its claim on a balance of probabilities, meaning “more likely than not.” I have read the parties’ submissions and evidence but refer only to the evidence and arguments I find relevant to provide context for my decision.
9. The undisputed evidence is that Ms. Li hired ACM to install closet organizers, and to install new mirrors, shower doors, shelves, and a tub in her bathroom. It is also undisputed the parties negotiated a price of \$3,450 for all of that work, which I find is confirmed in submitted text messages.
10. I find the parties’ contract was mostly verbal because the evidence shows it was not recorded in writing, except for a few text messages and ACM’s measurement and material production documents discussed below.
11. An August 1, 2022 invoice shows that ACM charged Ms. Li \$3,580 plus \$179 in GST for a total of \$3,759. ACM does not explain why it invoiced Ms. Li that amount or why it claims that same amount in this dispute, given that ACM admittedly agreed to a lower price. I find there is no evidence before me showing that Ms. Li is responsible for paying a price greater than the agreed \$3,450. I find the parties did not discuss GST, but there is no evidence before me showing that it was not customary to apply GST for this type of work, or that Ms. Li did not expect to be charged GST in this case. So, I find the total agreed project price, after adding GST, was \$3,622.50.
12. ACM says it showed its measurement and materials documents to Ms. Li, who approved the designs. Ms. Li does not directly deny that she saw those documents and instructed ACM to proceed with its work. Ms. Li also does not deny that ACM finished its work as agreed, apart from 3 alleged deficiencies. Specifically, Ms. Li says

ACM did not put light fixture holes in the right position in a bathroom mirror, did not properly install a glass shower door, and did not install enough drawers in the closet.

13. I find the submitted evidence shows that ACM completed the agreed renovation work, with the possible exception of the 3 alleged deficiencies. So, I find that Ms. Li owes ACM the \$3,622.50 project price, subject to any deductions for the alleged deficiencies, which I will now address.
14. Ms. Li says she was willing to pay ACM once it addressed the alleged deficiencies. Each party says it repeatedly tried to schedule a time for ACM to investigate the alleged deficiencies and repair them if necessary, and that the other party was not responsive. I find the evidence does not show that either party failed to adequately respond to the other, but ACM undisputedly performed no deficiency repairs. I also find there is no evidence that Ms. Li paid ACM anything toward the project price. So, I find Ms. Li alleges she is entitled to a set-off, equal to the entire project price, for the value of the alleged deficiencies.
15. Specifically, I find Ms. Li alleges that ACM's work was not of reasonably professional quality. I find it was an implied term of the parties' agreement that ACM's work would be of reasonable quality (see *Belfor (Canada) Inc. v. Drescher*, 2021 BCSC 2403 at paragraph 18). As the party alleging deficient work, Ms. Li bears the burden of proving that ACM failed to perform the work in a reasonably professional manner (see *Absolute Industries Ltd. v. Harris*, 2014 BCSC 287 at paragraph 61).

### ***Mirror Hole Positions***

16. The new bathroom mirror was to have 2 holes where light fixtures would be installed. ACM says Ms. Li approved the holes' position, as recorded in the measurement documents it showed her. I find the position of the mirror holes is not obvious from those documents, and ACM does not explain them further. Ms. Li does not directly deny that she approved ACM's measurement documents, but says she instructed ACM to put the holes in a different place.

17. Ms. Li texted ACM a drawing showing where she wanted the mirror holes. The drawing gave distances from the top and edges of the mirror to the desired holes, and said, "Change the light position of the bathroom to the center of the hand basin."
18. The text message is undated. I find the evidence and submissions do not show whether Ms. Li sent the text before or after ACM manufactured and installed the mirror and its holes. Further, the submitted evidence does not show whether the measurements on Ms. Li's drawing would, in fact, place the mirror holes directly over the centers of the hand basins, or which of those things ACM should rely on.
19. Photos in evidence show that the mirror holes were not placed directly over the centers of the hand basins. However, I find the submitted evidence does not show whether the holes were located according to Ms. Li's drawing measurements, ACM's measurement documents, or something else.
20. Further, I find Ms. Li's text asked ACM to change the position of the holes, which indicates that the parties had earlier agreed to a different position. I find that the earlier-agreed hole positions were likely part of what Ms. Li approved when reviewing ACM's measurement documents. On balance, I find the evidence does not show that ACM agreed to change the hole position from the earlier agreement, or that Ms. Li requested the change before ACM had already completed the work.
21. Overall, I find the evidence is not sufficient to prove that ACM placed the mirror holes in a different position than the parties agreed, that it received Ms. Li's change request before completing the mirror work, or that it agreed to that change. So, I find the mirror hole placement was not deficient, and Ms. Li is not entitled to any set-off for it.

### ***Shower Door Installation***

22. Ms. Li says ACM installed the glass shower door improperly, making it difficult to open and close. She says this is a safety hazard and that an unidentified family member fell because of it. However, I find there is no evidence confirming that a family member fell or that the door is a safety hazard. ACM says the door was installed properly.

23. I find submitted photos show a small amount of transparent glue- or silicone-like material where the door meets its track. I find there is no video or other evidence showing that the door was difficult to move, or showing anything that would obviously restrict door movements.
24. 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 if a deficiency is non-technical and within an ordinary person's knowledge and experience, or if the work is obviously substandard (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112).
25. Here, based on the submitted evidence, I find the door installation work was not obviously substandard. I also find that shower door installation is a technical topic that is not within ordinary knowledge and experience. So, I find expert evidence is required to prove whether ACM's shower door installation work was substandard and resulted in the door's alleged operating difficulties. However, there is no expert evidence before me in this dispute.
26. For the above reasons, I find it unproven that ACM improperly installed the door, or caused the alleged door operating difficulties. So, I find Ms. Li is not entitled to any set-off for the shower door installation.

### ***Number of Closet Drawers***

27. ACM says the parties agreed the closet organizers would have 3 sets of 3 drawers each, for a total of 9 drawers. Ms. Li says the parties agreed to 3 sets of 4 drawers each, for a total of 12. ACM undisputedly installed 3 sets of 3 drawers.
28. I find that ACM's measurement and order documents show 2 similar sketches of the closet organizer layout. I find both of these sketches show 3 sets of drawers with 3 drawers per set, for a total of 9 drawers. There are no other documents before me showing that the parties agreed to a different number of drawers. Having weighed the evidence, I find that the parties likely agreed to 3 sets of 3 drawers, which is what

ACM installed. Ms. Li also says that the drawers were improperly levelled and do not close properly. However, I find that submitted drawer photos and other evidence do not show unlevel drawers or closing issues.

29. For the above reasons, I find the evidence does not show ACM installed fewer drawers than agreed, or that it incorrectly installed any drawers. So, I find Ms. Li is not entitled to a set-off for the closet drawers.

30. Given that there are no proven deficiencies, I find Ms. Li owes ACM the full project price with no deductions. I allow \$3,622.50 for ACM's claim.

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

31. The *Court Order Interest Act* (COIA) applies to the CRT. I find that under the COIA, ACM is entitled to pre-judgment interest on the \$3,622.50 owing. I find this interest is reasonably calculated from the August 1, 2022 invoice date until the date of this decision. This equals \$23.11.

32. 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. Here, I see no reason not to follow that general rule. ACM was largely successful in its claim, so I find it is entitled to reimbursement of the \$125 it paid in CRT fees. Ms. Li was largely unsuccessful, so I find she is not entitled to reimbursement of the \$50 she paid in CRT fees. Neither party claimed CRT dispute-related expenses.

### **ORDERS**

33. I order that, within 30 days of the date of this decision, Ms. Li pay ACM a total of \$3,770.61, broken down as follows:

- a. \$3,622.50 in debt,
- b. \$23.11 in pre-judgment interest under the COIA, and

c. \$125 in CRT fees.

34. ACM is also entitled to post-judgment interest under the COIA, as applicable.

35. 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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Chad McCarthy, Tribunal Member