



Civil Resolution Tribunal

Date Issued: June 20, 2023

File: SC-2022-003962

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Choy v. Golden Villa Cabinet Inc.*, 2023 BCCRT 520

BETWEEN:

JIMMY CHOY

APPLICANT

AND:

GOLDEN VILLA CABINET INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin, Vice Chair

INTRODUCTION

1. The applicant, Jimmy Choy, hired the respondent, Golden Villa Cabinet Inc. (GVC), to provide and install 5 bathroom cabinets in 3 bathrooms. Mr. Choy says GVC's installation work was not completed and was deficient.

2. In his application for dispute resolution, Mr. Choy asked that GVC replace 5 cabinet panels (doors) and refund its installation charge, with a total value of \$705.06. In his later submissions, Mr. Chou asks only to be refunded the \$605.06 installation fee he allegedly paid GVC.
3. GVC acknowledges it incorrectly drilled holes in the panels, but says it replaced those panels. It says it installed the cabinets as best it could in the insufficient space left by other trades, and following the pipes already installed. GVC also says it tried to arrange to come back to fix any issues, but Mr. Choy refused. So, GVC says it owes Mr. Choy nothing.
4. Mr. Choy represents himself. GVC is represented by an employee.

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 GVC must refund Mr. Choy \$605.06 because GVC's cabinet installation work was incomplete or deficient.

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one the applicant, Mr. Choy, must prove his claim 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 which is relevant to explain my decision.
11. Mr. Choy hired GVC to build, deliver, and install 5 floating bathroom cabinets; 3 in the main bathroom, and 1 each in the upstairs and downstairs bathrooms. GVC's installers arrived at Mr. Choy's house on May 27, 2022 but installed only the upstairs and downstairs bathroom cabinets. None of this is disputed.
12. Mr. Choy says GVC failed to install the 3 main bathroom cabinets, installed the downstairs and upstairs bathrooms incorrectly so they were uneven and not level, cut square holes in the walls for plumbing instead of round ones, and drilled handle holes incorrectly on 5 cabinet panels. Essentially, Mr. Choy says GVC's installation was deficient or substandard.
13. Generally, expert evidence is required to prove that a trade's work is below a reasonable standard. The exceptions to this rule are when the work is not technical in nature, or where the deficiency is obvious (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196).

14. First, it is undisputed that GVC incorrectly drilled holes in 5 panels, which I find are either cabinet doors or drawers. It is also undisputed that GVC provided replacement panels, which it installed on July 15, 2022. So, I find GVC corrected this deficiency and I need not consider it further.
15. Second, Mr. Choy says the upstairs and downstairs single bathroom cabinets were loose and uneven. Mr. Choy provided an undated witness statement from his general contractor, Andy Siu. In the statement, Andy Siu says the single cabinets were not level, not plumb, and hung incorrectly. This is supported by Mr. Choy's photo of a cabinet with a level, as well as a video showing a cabinet moving significantly when shaken.
16. I find it obvious that wall hung bathroom cabinets should be installed so that they are level, otherwise items in or on top of the cabinets may slide or roll.
17. I also find it obvious that the walls of a cabinet, with or without countertops, should not move out of square when shaken, once installed. Although GVC's representative said that every cabinet will move when shaken before the countertop is installed, they provided no expert opinion to show this was the professional standard in the cabinet industry. I find common sense dictates that square, mounted cabinets should not move excessively when shaken.
18. So, I find these obvious deficiencies proven. I accept that those cabinets needed to be removed and reinstalled. I address the appropriate remedy below.
19. Third, Mr. Choy says GVC's wall holes were unprofessional because they were square, rather than round. Mr. Choy provided no expert evidence to say that square holes were below the industry standard, despite obtaining a witness statement from his general contractor. So, I find this alleged deficiency unproven.
20. Fourth, Mr. Choy says the drawers in the upstairs bathroom cabinet needed to be realigned. Although Mr. Choy provided a photo embedded in a June 13, 2022 email, I do not find it shows any obvious drawer misalignment. As he provided no further evidence, I find this deficiency unproven.

21. Finally, Mr. Choy says GVC did not install the main bathroom cabinets on May 27, 2022, which GVC does not dispute.
22. GVC says it was unable to install the main cabinets because Mr. Choy's tiler had not left enough drywall space on the wall to do so. Mr. Choy says the cabinets should have been installed over the tiles. He says GVC should have brought the correct drill bits to do so and should have installed any extra wall supports required to hang the main bathroom cabinets. There is no indication in the parties' communications that GVC knew, or should have known, that it was required to install the floating cabinets over tile.
23. In any event GVC says it was willing to return and complete the cabinet installation once it found a way to do so. This is consistent with GVC's May 31, 2022 text to Mr. Choy to confirm an installer for the next day. However, Mr. Choy responded that he may "just have Andy do the work for me". Further, I find GVC proposed completing installation on a few different dates in emails to Mr. Choy in June 2022.
24. Contractors are generally entitled to a reasonable opportunity to address deficiencies. If the owner does not give that opportunity, they are generally not entitled to claim damages for having deficiencies repaired by someone else (see *Lind v. Storey*, 2021 BCPC 2).
25. Mr. Choy says that GVC refused to complete the main cabinet installation until after he signed a waiver. Based on the parties' communications, I find GVC did send Mr. Choy an agreement to sign after it first attempted to install the master cabinets, saying that the cabinets were lower than agreed to, that the wall lacked proper reinforcement, and so any later issues with the cabinet, or need to remove or reinstall them for unrelated issues (e.g. plumbing repairs) would not be GVC's responsibility. It is undisputed Mr. Choy did not sign that waiver. Despite Mr. Choy not signing the agreement, GVC continued to ask Mr. Choy when it could complete the installation. The evidence before me does not support that GVC refused to complete the installation pending the agreement being signed, as Mr. Choy argues.

26. On balance, I find Mr. Choy did not provide GVC a reasonable opportunity to complete the main bathroom cabinet installation. So, I find he is not entitled to damages for that incomplete installation. However, having found GVC's installation of the 2 single cabinets was deficient, I turn to consider what damages are appropriate to remedy that deficiency.
27. As noted, Mr. Choy now claims a refund of the \$605.06 installation fee he says he paid GVC. GVC does not address the amount of damages claimed, or otherwise address its installation fee.
28. The parties agree that GVC invoiced Mr. Choy \$3,694.66 and that Mr. Choy paid GVC that amount. However, neither party submitted a copy of that invoice to show the breakdown of materials and labour, or GVC's alleged installation charge.
29. On the evidence provided, I find it likely Mr. Choy paid GVC approximately \$600 for installation fees. As I find Mr. Choy is only entitled to damages for the deficient installation, rather than the incomplete installation, I find he is only entitled to a refund of part of his paid installation fee. So, on a judgment basis, I find Mr. Choy is entitled to \$300 to remedy the proven deficiencies.
30. The *Court Order Interest Act* applies to the CRT. Mr. Choy is entitled to pre-judgment interest on the \$300 from his April 17, 2022 final GVC payment date to the date of this decision. This equals \$9.10.
31. 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 both parties were partially successful in this dispute, I find they are each entitled to half their paid CRT fees. I find Mr. Choy is entitled to \$50, which is half his paid CRT fees (\$75) less half GVC's paid CRT fees (\$25). Neither party claimed any dispute-related expenses.

ORDERS

32. Within 14 days of the date of this order, I order GVC to pay Mr. Choy a total of \$359.10, broken down as follows:
- a. \$300 as reimbursement for proven deficiency repairs,
 - b. \$9.10 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$50 in CRT fees.
33. Mr. Choy is entitled to post-judgment interest, as applicable.
34. 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.

Sherelle Goodwin, Vice Chair