



Civil Resolution Tribunal

Date Issued: June 26, 2024

Files: SC-2023-000068
and SC-CC-2023-009176

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Gentlewalker Flooring Inc. v. Li*, 2024 BCCRT 608

B E T W E E N :

GENTLEWALKER FLOORING INC.

APPLICANT

A N D :

WEIMIN LI

RESPONDENT

A N D :

GENTLEWALKER FLOORING INC.

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. This decision is about 2 linked disputes that are a claim and a counterclaim about renovation work. In dispute SC-2023-000068, Gentlewalker Flooring Inc. (Gentlewalker) says it completed painting and flooring installation work for Weimin Li¹ but has not been paid in full. Gentlewalker claims Ms. Li owes it \$1,596.50. An employee represents Gentlewalker.
2. Ms. Li says that they did not pay Gentlewalker anything further than the \$4,800 they already paid because its work was poorly done. In dispute SC-CC-2023-009176, Ms. Li counterclaims for a \$4,800 refund for Gentlewalker's allegedly deficient work. Gentlewalker did not respond to Ms. Li's counterclaim and is technically in default. Ms. Li is self-represented.

JURISDICTION AND PROCEDURE

3. 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). CRTA section 2 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.
4. CRTA section 39 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 and that an oral hearing is not necessary.
5. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

¹ The CRT has a policy to use inclusive language that does not make assumptions about a person's gender. As part of that commitment, the CRT asks parties to identify their pronouns and titles to ensure the CRT addresses them respectfully throughout the process, including in published decisions. Weimin Li advised that their title is "Ms." but did not provide their pronouns. So, I will use gender neutral pronouns to refer to them throughout this decision, intending no disrespect.

6. Where permitted by section 118 of the CRTA, in resolving disputes 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

7. The issues in these disputes are:
 - a. Is Gentlewalker entitled to the claimed \$1,596.50, or some other amount, for unpaid renovation work?
 - b. Was Gentlewalker's work deficient? If so, what remedies are appropriate?

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, Gentlewalker must prove its claims on a balance of probabilities, meaning more likely than not. Ms. Li must prove their counterclaim to the same standard. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision. Notably, Gentlewalker did not provide any written submissions or documentary evidence in either dispute, despite having the opportunity to do so.

Background

9. In August 2022, Ms. Li hired Gentlewalker to install flooring and paint their newly purchased home that they would be moving into in October 2022. Gentlewalker says that it gave Ms. Li a \$6,055.25 quote for the work, which Ms. Li accepted. Ms. Li does not dispute this amount, so I find that the parties' contract price for the renovation work was \$6,055.25.
10. Ms. Li paid Gentlewalker \$1,800 on September 19 and \$3,000 on October 7. Gentlewalker painted the walls and installed the flooring just before Ms. Li's October 21 move in date. Gentlewalker says that it completed the contracted work but Ms. Li has failed to pay it in full. It claims Ms. Li still owes it \$1,596.50. I note, however, that

based on the \$6,055.25 contract price and the \$4,800 Ms. Li has already paid, this leaves only \$1,255.25 owing, not \$1,596.50. Gentlewalker says that after it received the initial \$1,800 payment, it calculated the “adjusted balance” and issued Ms. Li an invoice for the remaining balance of \$4,596.50. However, Gentlewalker has not provided any evidence to show why the total balance needed to be adjusted, or that Ms. Li agreed to pay anything more than the \$6,055.25 the parties previously agreed on. So, I find that at most, Gentlewalker is entitled to the \$1,255.25 that remains owing from the contract price.

11. Ms. Li says that they do not owe Gentlewalker anything further and that they are entitled to a full refund because Gentlewalker not only did not finish the work but the work it did do was deficient. In particular, Ms. Li says that the flooring planks do not fit snugly enough with one another, and the floorboards make noise when you walk on them in the living room and kitchen. Ms. Li further says the painting work was not only poorly done but alleges that it was incomplete because Gentlewalker did not paint the baseboards as agreed.
12. Ms. Li says that they informed Gentlewalker about the deficiencies, including the noises coming from the floor when walked on but Gentlewalker said that any noises were due to the ground underneath being uneven. Ms. Li says that Gentlewalker’s only proposed solution was to re-do the flooring altogether. Gentlewalker says it informed Ms. Li about the uneven ground before installing the new flooring and suggested Ms. Li level the floor, but Ms. Li instructed it to proceed as is. Ms. Li denies this.

Gentlewalker’s claim

13. I turn first to Gentlewalker’s claim for the unpaid work. Generally, a contractor like Gentlewalker is entitled to full payment if it substantially completed the work. The burden is on Gentlewalker to prove the work was substantially complete. If a customer, like Ms. Li, believes that there are problems with the contractor’s work, they may bring a claim for damages. However, they must still pay the contractor’s invoices

subject to any deduction for deficient work (see *Belfor (Canada) Inc. v. Drescher*, 2021 BCSC 2403 at paragraph 16.)

14. The first question is whether Gentlewalker substantially completed the contracted work. I find this requires Gentlewalker to prove two things: first, what specific work Ms. Li hired it to do, and second, that Gentlewalker did that work.
15. In the Dispute Notice for dispute SC-2023-000068, Gentlewalker refers to a quote that it says set out the scope of work the parties agreed to. This quote is not in evidence. However, it is undisputed that Ms. Li hired Gentlewalker to install flooring and to paint the walls at their new home, which Gentlewalker says it completed. Ms. Li also says that Gentlewalker agreed to reinstall the baseboards and paint them after Gentlewalker finished installing the new floor. Ms. Li alleges that Gentlewalker did not paint the baseboards, so its painting work was incomplete. As the burden is on Gentlewalker to prove what specific work Ms. Li hired it to do and it has presented no evidence to show that the baseboard painting work was excluded from the contract, I accept that the baseboard painting work was included.
16. Next, Gentlewalker also provided no evidence about what work it completed. The only evidence before me are the photographs that Ms. Li provided of the alleged deficiencies in Gentlewalker's work. Based on these photographs and Ms. Li's written argument, I find it likely that Gentlewalker substantially finished painting the walls and installing the flooring, although not to Ms. Li's satisfaction. However, as Gentlewalker has provided no evidence to contradict Ms. Li's allegation that it agreed but failed to also paint the baseboards, I find that Gentlewalker has not proven that it substantially completed all of the work contracted work.
17. So, I find it is not entitled to the remaining \$1,255.25 owed under contract. Instead, I find Gentlewalker is entitled only to payment for the work it actually did. In law, this concept is known as *quantum meruit*, meaning value for the work done. There is no evidence before me about what portion of the contract price was for painting the walls and installing the flooring and what portion was for the baseboard work. So, on a

judgment basis, I find Gentlewalker is entitled to \$5,600 for the completed work. Ms. Li has already paid \$4,800, so I find Ms. Li still owes Gentlewalker \$800.

Ms. Li's counterclaim

18. I turn now to Ms. Li's counterclaim for a refund due to alleged deficiencies in Gentlewalker's completed work. As noted, Gentlewalker did not submit a Dispute Response in response to Ms. Li's counterclaim as required under CRT rule 3.1. So, it is technically in default. Generally, liability is assumed where a respondent is in default. However, in non-debt claims like this, Ms. Li must still prove they are entitled to their claimed damages. For the following reasons, I find the evidence and submissions show that Gentlewalker owes Ms. Li only \$600 in damages for deficiencies in its completed work instead of the claimed \$4,800.
19. At law, a contractor is required to perform its work to a reasonable standard (see *Lund v. Appleford Building Company Ltd. et al.*, 2017 BCPC 91 at paragraph 124). The law does not require perfection. Generally, expert evidence is required to prove whether a professional's work fell below a reasonably competent standard. This is because an ordinary person does not know the standards of a particular profession or industry, which I find includes painting and flooring installation work. Exceptions to this general rule are when the work is obviously substandard, or the deficiencies relate to something non-technical (see *Schellenberg v. Wawanesa Mutual Insurance Company*, 2019 BCSC 196 at paragraph 112).
20. Here, Ms. Li did not provide any expert evidence. However, I find photographs in evidence show various obvious deficiencies in Gentlewalker's flooring installation and painting work.
21. First, I find there are at least 2 areas near the border of a doorway and a wall where the paint was thinly applied and likely requires another coat. Second, there is a portion of the painting work near the kitchen where the paint colour from the wall, which is different from the white ceiling, has been overpainted onto the ceiling. In the same area, a portion of the paint work that has been overpainted also looks messily done,

without clean lines on the edge. There is also at least 1 area where the wall's paint colour appears to have accidentally been applied to what appears to be a nearby white wall or column.

22. Next, I find there is 1 obvious, though small, gap between 2 floor planks near a closet. There is also another plank near a closet that appears to have been installed without being cut the proper width, leaving an unsightly gap between the plank and the metal track for the closet's sliding doors. Finally, there is an area near another closet where glue or some other sort of liquid that I find was likely used during the installation work appears to be smeared onto one of the planks, leaving it looking dirty. As noted above, Ms. Li also alleges that the floor is generally not level and makes noise when walked on. However, I find this allegation unproven on the evidence before me. To the extent Ms. Li alleges additional deficiencies in Gentlewalker's work, I also find these unproven.
23. This leaves the question of what damages Ms. Li is entitled to for the proven deficiencies. Ms. Li does not say that they have fixed any of the proven deficiencies. There is also no evidence before me about how much it would cost to fix them. On balance, I find the proven deficiencies are generally minor and aesthetic in nature, and the full \$4,800 refund Ms. Li claims is not warranted.
24. I find that in order to fix the painting deficiencies, Ms. Li will need to buy new paint to add an extra coat to the areas on the walls that need it, as well as white paint to fix the ceiling and other areas where the wall paint has improperly been applied. On a judgment basis, I find Ms. Li's damages for the proven painting deficiencies are \$200.
25. The flooring deficiencies are more difficult to assess as it is unclear exactly how much work is required to fix them. On a judgment basis, I find \$400 appropriate for the proven flooring deficiencies. So, in total, I find Ms. Li is entitled to \$600 in damages for the proven deficiencies in Gentlewalker's completed renovation work.

Conclusion

26. Taking the \$800 I have found that Ms. Li owes Gentlewalker and deducting the \$600 I have awarded Ms. Li for the proven deficiencies, I find Ms. Li still owes Gentlewalker \$200 for the unpaid renovation work. I order them to pay Gentlewalker this amount.
27. The *Court Order Interest Act* applies to the CRT. Gentlewalker is entitled to pre-judgment interest on the \$200 from October 31, 2022, a date I find reasonable, to the date of this decision. This equals \$16.19.
28. Under CRTA section 49 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. I find the parties' success here was mixed. So, I find it appropriate for the parties to each bear the cost of their own CRT fees and any dispute-related expenses.

ORDERS

29. Within 14 days of the date of this decision, I order Ms. Li to pay Gentlewalker a total of \$216.19, broken down as follows:
 - a. \$200 in debt for the unpaid renovation work, and
 - b. \$16.19 in pre-judgment interest under the *Court Order Interest Act*.
30. Gentlewalker is entitled to post-judgment interest, as applicable.
31. Having accounted for the amount awarded to Ms. Li for the proven deficiencies in Gentlewalker's work in the above order, I dismiss Ms. Li's remaining claims in dispute SC-CC-2023-009176. Gentlewalker's remaining claims in dispute SC-2023-000068 are also dismissed.
32. This is a validated decision and order. 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.

Nav Shukla, Tribunal Member