



Civil Resolution Tribunal

Date Issued: September 24, 2025

File: SC-2024-006894

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Pickell v. Yorkson 204 Developments Ltd.*, 2025 BCCRT 1339

B E T W E E N :

KENNY GORDON PICKELL

APPLICANT

A N D :

YORKSON 204 DEVELOPMENTS LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Nyhuus

INTRODUCTION

1. The applicant, Kenny Gordon Pickell, says the respondent developer, Yorkson 204 Developments Ltd., damaged his moldings and walls while trying to repair a staircase. Mr. Pickell claims \$4,424.10 for the cost of repairs. He represents himself.

2. Yorkson says Mr. Pickell's claims were resolved through a settlement agreement between Mr. Pickell and a third party warranty provider. It asks me to dismiss his claims. Yorkson is represented by an authorized employee.
3. For reasons I will explain, I dismiss Mr. Pickell's claims.

JURISDICTION AND PROCEDURE

4. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). 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. These are the CRT's formal written reasons.
5. CRTA section 39 says the CRT has discretion to decide the hearing's format, 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.
6. 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.
7. Under CRTA section 48(1), the CRT may make an order on terms and conditions it considers appropriate.

ISSUE

8. The issue in this dispute is whether Yorkson must pay Mr. Pickell for the costs of repairing his moldings and walls.

EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, Mr. Pickell, as the applicant, must prove his claims on a balance of probabilities. This means “more likely than not”. I have read all the parties’ submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision.
10. Mr. Pickell has not explained his relationship to Yorkson. However, as this dispute stems from Mr. Pickell’s claim under a “new home warranty” for a defective staircase, I infer that Yorkson is a developer or builder and that it built a townhouse that Mr. Pickell purchased. Neither party provided the purchase agreement for the townhouse or the warranty’s terms and conditions.
11. This dispute also involves a warranty provider, TC, that provided coverage for the staircase’s deficiencies. TC is not a party to this claim. Neither party provided the warranty policy or the agreement with TC.
12. Doing the best I can with the limited evidence of the contractual relationships among the parties and TC, I turn to the background facts.
13. When Mr. Pickell took possession of his new house, there was an issue with its stairs. According to TC’s claim adjuster, the stair stringers were installed at the wrong angle, which caused the tread to be on an angle. The claim adjuster observed that a high number of stairs had gaps between the stringers and risers, and that many treads sloped beyond the BC Building Code’s standards. I infer there were issues with most of the staircase, since TC described unacceptably sloped treads between both the basement and main floor and between the main floor and roof deck access door. Mr. Pickell also provided many photographs of the staircase. I find the staircase’s moldings and baseboards appear obviously deficient.
14. In June 2023, Yorkson’s representatives and subcontractors attended Mr. Pickell’s house to inspect the stairs. Yorkson agreed the stairs’ condition was unacceptable. So, it instructed its subcontractors to perform a “test run” on the portion of the stairway between the entry level and basement, to determine whether it could repair

or mask the stairs' flawed appearance. Yorkson admits that it was not satisfied with the test run's results.

15. Mr. Pickell says the test run involved removing the existing anti-stringers, reshaping them, and reinstalling them. Mr. Pickell says that Yorkson caused additional damage to the staircase and its walls while performing the test run. I infer that Yorkson admits that the test run caused further damage, since it agreed with Mr. Pickell "that the damaged moldings and walls would be repaired once the entire stairway in the home was fixed."
16. Yorkson says that it tried to negotiate with Mr. Pickell about the repair work but failed to reach an agreement. So, in September 2023, it escalated the issue to its warranty provider, TC. Mr. Pickell acknowledges that TC contacted him around this time.
17. I infer that TC hired contractors to fix Mr. Pickell's entire staircase. However, Mr. Pickell says that TC excluded from the warranty claim the damage to the walls and moldings caused by Yorkson's subcontractors during the June 2023 test run. Mr. Pickell says the warranty only covered deficiencies that existed at the time of possession, so it did not cover the test run damage, which happened afterwards.
18. Mr. Pickell says his claim in this dispute is about the damage Yorkson caused to his basement stairs during the test run. He provided receipts from March 2024 for the construction, painting, and cleaning costs he says he incurred fixing Yorkson's damage.
19. Yorkson says it is not liable for these repair costs. It says that once TC took over the file in September 2023, it had no further involvement with Mr. Pickell's stairs. It says that TC hired a contractor, ND, to repair Mr. Pickell's moldings and walls in late March 2024, but that Mr. Pickell refused to allow ND to perform the work. Yorkson says that TC and Mr. Pickell then signed a settlement agreement for the repair of the stairs, which included him accepting \$1,500 for the repair of the moldings and walls damaged during the test run repair. Yorkson says it can provide a copy of this

settlement “upon request”, however, it did not do so. It says this amount was sufficient to cover the repair, and that the extra amounts claimed by Mr. Pickell are excessive.

20. Yorkson also provided ND's quote, which includes the following scope of work:
“repair/paint the walls and baseboards due to the flooring repairs in the stairs.”
21. Mr. Pickell says he was uncomfortable with ND, so TC instead offered a financial settlement. Mr. Pickell did not provide the settlement agreement, which he describes as “confidential”. He says the settlement agreement covers the warranty work for repairing the rise and run of the stairs but does not cover the post-possession damage to the anti-stringers, moldings, and walls caused by Yorkson.
22. I find that to prove his claim, Mr. Pickell must, at the very least, prove that TC was unwilling to cover the damage to the basement stairway's moldings and walls caused by Yorkson during the test run. For the following reasons, I find he has not proven this.
23. First, Mr. Pickell says his correspondence with TC's claim adjuster supports his assertion that this damage was excluded from the warranty policy. I disagree. In an email, the claim adjuster says that the covered work includes painting the baseboards and touch-ups to damaged portions of the walls. The claim adjuster does not differentiate between the portion of the stairway near the basement, where the test run happened, and the remainder of the stairway. ND's quote also does not differentiate between various portions of the stairway. I find the correspondence and ND's quote both indicate that TC was willing to cover the entirety of the repair work. I note also that Mr. Pickell provided the claim adjuster with his receipts for the repair costs that he now claims in this dispute. The claim adjuster said TC was dismissing Mr. Pickell's reimbursement claim because he incurred the repair costs before receiving approval from TC, not because it fell outside the warranty's coverage.
24. Second, I find that Mr. Pickell has inadequately addressed Yorkson's assertion that the settlement agreement covered the test run damage. I find the settlement

agreement is a key piece of evidence, as it likely says what the settlement is for and whether it includes the damage sustained during the test run.

25. Mr. Pickell argues that Yorkson should have provided the settlement agreement, as it is the basis of Yorkson's defence. While I agree that Yorkson should have provided it, I find the same is true for Mr. Pickell. CRT rule 8.1 says that a party must include all evidence in their possession that may prove or disprove an issue in the dispute, even if the evidence does not support the party's position. This is Mr. Pickell's claim, not Yorkson's. Since Yorkson raised the existence of the settlement agreement in the Dispute Response, I find CRT rule 8.1 required Mr. Pickell to provide it in his evidence package.
26. The CRT may draw an adverse inference when a party fails to provide relevant evidence without a good explanation. An adverse inference is when the CRT assumes that the party did not provide the evidence because it would not help their case. Here, I find it appropriate to draw an adverse inference against Mr. Pickell. I find it likely that Mr. Pickell did not provide the settlement agreement because it would not be helpful to his case. I note that I find the confidentiality of the settlement agreement to be an unsatisfactory explanation for not providing it. The CRT's Access to Information and Privacy Policy says the CRT will not provide public access to the parties' evidence and submissions. Yorkson says it already has a copy of the settlement agreement. So, I find Mr. Pickell has not proven that providing the settlement agreement would present a legitimate privacy concern.
27. Finally, I find that by not including the purchase agreement or warranty terms, Mr. Pickell has generally failed to prove the contractual obligations of himself, Yorkson, and TC in a warranty claim situation. Mr. Pickell argues he never agreed to escalate the entire warranty claim to TC and that Yorkson cannot unilaterally escalate a claim. Without the parties' contract and the wording of the warranty, I find I cannot determine whether Yorkson was entitled to do this. I also cannot determine whether the warranty treated the deficient staircase differently than the damage Yorkson caused to the staircase when it attempted to repair it.

28. For these reasons, I find that Mr. Pickell has not proven that Yorkson is liable for the costs he incurred repairing the stairway's moldings and walls. So, I dismiss his claim.

29. Under CRTA section 49 and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. Mr. Pickell was unsuccessful, so I dismiss his claim for reimbursement of CRT fees. Yorkson did not pay CRT fees. Neither party claimed dispute-related expenses.

ORDER

30. I dismiss Mr. Pickell's claims.

Peter Nyhuus, Tribunal Member