



# Civil Resolution Tribunal

Date Issued: October 3, 2019

File: SC-2019-001630

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Richardson v. Ocean Pacific Restoration Ltd. et al*, 2019 BCCRT 1156

**B E T W E E N :**

JUSTIN RICHARDSON

**APPLICANT**

**A N D :**

OCEAN PACIFIC RESTORATION LTD. and DMT GROUP  
RENOVATION & DESIGN LTD.

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

## INTRODUCTION

1. This is a claim about damage to the applicant Justin Richardson's cabinet doors.
2. The respondents, Ocean Pacific Restoration Ltd., (Ocean Pacific) and DMT Group Renovation & Design Ltd., (DMT) performed restoration services at the applicant's

home. The applicant claims that DMT was Ocean Pacific's subcontractor, and one of the DMT workers damaged his cabinet doors. The applicant says Ocean Pacific agreed to repair the cabinet doors, but then failed to fix them. The applicant claims \$2,892.75 to fix the cabinet doors.

3. During the Civil Resolution Tribunal (tribunal) case management phase and before the decision phase of this dispute, the applicant and DMT agreed that to a dismissal of the applicant's claims against DMT. Based on their consent dismissal agreement, I dismiss the applicant's claims against DMT.
4. The applicant, who is self-represented, proceeds only with his claims against Ocean Pacific. Ocean Pacific never filed a Dispute Response or participated in the dispute process.

## **JURISDICTION AND PROCEDURE**

5. These are the tribunal's formal written reasons. The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
6. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. I decided to hear this dispute through written submissions, because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
7. The tribunal 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 tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

8. A respondent must respond to a Dispute Notice within 14 days of receiving the Dispute Notice or as permitted by the tribunal. Based on the proof of notice, I find the applicant served Ocean Pacific by registered mail as required under tribunal rule 2.7 (1)(a). Ocean Pacific did not participate in any stage of this dispute process. I am satisfied that Ocean Pacific received the Dispute Notice and did not respond or participate in the process. Therefore, I find that Ocean Pacific is in default as defined on the CRTA.
9. Under tribunal rule 9.3(2), in resolving this dispute the tribunal may make one or more of the following orders, where permitted under section 118 of the CRTA:
  - a. order a party to do or stop doing something;
  - b. order a party to pay money;
  - c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUE**

10. The issue in this dispute is to what extent if any, Ocean Pacific is required to pay the applicant \$2,892.75 to fix the cabinet doors.

## **EVIDENCE, ANALYSIS AND DECISION**

11. As mentioned, the applicant says Ocean Pacific agreed to fix the cabinet doors. The applicant says that after two attempts at repairs, the colours remained mis-matched. I accept these facts as there is no evidence to the contrary, Ocean Pacific did not participate as required, and because the applicant submitted photographs of the mismatched doors.
12. Liability is generally assumed where a respondent is in default by not participating in a dispute. As mentioned, Ocean Pacific is in default. Therefore, I find that Ocean Pacific is liable for the damage to the applicant's cabinet doors. While liability is assumed when a party is in default, I must still assess the value of the claim.

13. The applicant says that 19 side-by-side doors need to be sprayed to ensure all the doors match. The applicant submitted an estimate from a cabinet refinishing company to spray the 19 doors for the claimed \$2,892.75. I find the applicant has established the value of his loss. I find Ocean Pacific must pay the applicant \$2,892.75.
14. The *Court Order Interest Act* applies to the tribunal. However, since the applicant has not yet paid to spray the doors, I have not awarded any pre-judgment interest.
15. Under section 49 of the CRTA and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I find Ocean Pacific must pay the applicant \$125.00 in tribunal fees and \$47.88 in dispute-related expenses.

## **ORDERS**

16. Within 30 days of the date of this decision, I order Ocean Pacific to pay the applicant a total of \$3,065.63, broken down as follows:
  - a. \$2,892.75 for the cabinet doors, and
  - b. \$172.88, for \$125.00 in tribunal fees and \$47.88 in dispute-related expenses.
17. The applicant is entitled to post-judgment interest from Ocean Pacific, as applicable under the *Court Order Interest Act*.
18. The applicant's claims against DMT are dismissed.
19. As set out in 58.1(3) of the CRTA, a party may only enforce this order if the time for making a notice of objection has passed and a Notice of Objection has not been filed. The party in default has no right to make a Notice of Objection, as set out in section 56.1(2.1) of the CRTA.

20. Orders for financial compensation or the return of personal property can be enforced through the Provincial Court of British Columbia, so long as the principal value is within its jurisdiction under the Small Claims Act (currently \$35,000). The applicant can enforce this final decision by filing in the Provincial Court of British Columbia a validated copy of this Order. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

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Trisha Apland, Tribunal Member