



Civil Resolution Tribunal

Date Issued: April 4, 2024

File: SC-2023-003224

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shoa v. Home Depot of Canada Inc.*, 2024 BCCRT 331

B E T W E E N :

NOSRATOLLAH SHOA

APPLICANT

A N D :

HOME DEPOT OF CANADA INC.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. This dispute is about shower door installation.
2. The applicant, Nosratollah Shoa, says he bought a shower door from the respondent, Home Depot of Canada Inc. (Home Depot). Mr. Shoa says he scheduled Home Depot to install the shower door on March 16, 2023. He says that right before the

appointment, Home Depot cancelled and said he would have to wait a month for the installation. Mr. Shoa says that because of the cancellation, he missed a day of work, and was unable to rent out his property. As remedy, Mr. Shoa claims \$5,000 for 3 months' lost rent.

3. Home Depot says the shower door was purchased and delivered in 2020, but Mr. Shoa did not arrange its installation until March 8, 2023. Home Depot says its subcontractor, Quick Contractors (Quick) was scheduled to install the door on March 16, 2023, but before the scheduled time, Quick told Home Depot that its installer was injured in an accident and could not work, and Quick's only other qualified installer was on vacation until the end of March. Home Depot says Mr. Shoa refused to wait and refused to accept a different contractor. Home Depot says Mr. Shoa is not entitled to damages because he did not mitigate his losses.
4. Mr. Shoa is self-represented in this dispute. Home Depot is represented by an employee.
5. For the reasons set out below, I dismiss Mr. Shoa's claim.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims 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.
7. 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. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.

8. 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.

Additional Remedies

9. In his submissions, Mr. Shoa requests additional remedies not included in the Dispute Notice. He requests unspecified compensation for time missed from work, and his time spent to “rectify the situation”. Also, the CRT’s small claims jurisdiction is limited to claims under \$5,000. Since Mr. Shoa has already claimed \$5,000 for lost rent allegedly arising from the cancelled shower door installation, he cannot claim additional damages for the same incident. Also, as explained below, I find Mr. Shoa is not entitled to any remedy for his claim.
10. For these reasons, I have not addressed Mr. Shoa’s additional remedy requests further in this decision.

ISSUE

11. Is Mr. Shoa entitled to \$5,000 for lost rent?

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, Mr. Shoa, as the applicant, must prove his claims on a balance of probabilities. I have read the parties’ submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.
13. Home Depot provided an invoice showing that Mr. Shoa bought the shower door and had it shipped in November 2020. The parties agree that in early March 2023, Mr. Shoa arranged through Home Depot that Quick would install the door on March 16, 2023.
14. As explained above, Mr. Shoa says Home Depot cancelled the installation “right before” the scheduled time. In its Dispute Response, Home Depot says it informed

Mr. Shoa of the cancellation on March 10, 2023. However, in its later submission, Home Depot says it learned of and informed Mr. Shoa of the cancellation on the day of the scheduled installation. Since Home Depot provided no evidence to support either version of events, I accept Mr. Shoa's assertion that Home Depot cancelled the installation right before the scheduled time.

15. Home Depot says, and Mr. Shoa does not dispute, that Quick's installer was injured in an accident. This is consistent with the undated transcript of a telephone call between a Home Depot employee and Mr. Shoa that Mr. Shoa provided in evidence. So, I accept that the installation could not occur on March 16, 2023 because the installer was injured.
16. Mr. Shoa says the cancellation was a breach of contract, and he is entitled to damages for non-performance.
17. Home Depot relies on the shower door purchase invoice from November 2020. The invoice says Home Depot and the installer are not responsible for any delays in installation for any cause beyond the control of Home Depot and/or the installer.
18. I find this term on the invoice is not binding on Mr. Shoa, since there is no evidence that he ever saw it or agreed to it. Mr. Shoa did not sign the invoice, and there is no evidence that he electronically or otherwise agreed to its terms. Also, the purchase invoice is an entirely separate contract from the installation contract, which had no written agreement.
19. However, I find Mr. Shoa is not entitled to damages for breach of contract for several other reasons.
20. First, I find Mr. Shoa has not proved any breach of contract. I say this because there is insufficient evidence to establish that the specifically scheduled installation date was a required term of the contract between the parties. The evidence shows that Mr. Shoa paid Home Depot for the installation (and later received a refund). However, I find Mr. Shoa has not proved that the parties' agreed that the installation could only happen on March 16, 2023, and that rescheduling would be a breach of contract.

21. The telephone transcript Mr. Shoa provided confirms that Home Depot offered to reschedule the installation with Quick for a date about 3 weeks after March 16. The transcript also shows that Home Depot also offered, as an alternative, to arrange installation by a different contractor.
22. Mr. Shoa says he could not wait for 3 weeks because he was moving to another country and would not be available. However, Mr. Shoa provided no evidence to confirm this assertion. Mr. Shoa also said the alternate installer Home Depot offered “had no credible background and questionable professional experience.” However, Mr. Shoa provided no evidence to establish that the alternate installer was unqualified.
23. Most importantly, even if Home Depot breached the parties’ contract, Mr. Shoa had a duty to mitigate his losses: see *Red Deer College v. Michaels*, 1975 CanLII 15 (SCC). This means he had to act reasonably to prevent avoidable losses resulting from the alleged breach of contract. If Mr. Shoa was unwilling to use Home Depot’s alternate installer, Mr. Shoa could have mitigated his losses by hiring his own contractor. There is no evidence that he attempted to do so. For example, Mr. Shoa did not provide evidence that he attempted to contact other contractors, or that they were unavailable or unable to do the work.
24. Alternatively, Mr. Shoa could have mitigated his losses by accepting Home Depot’s offer to reschedule the Quick installer for early April 2023. Even if he was out of the country, he could have asked a friend or paid an agent to let the installer in and supervise the work. This would have reduced his losses. I note that Mr. Shoa must have arranged the shower door installation through another provider at some point, even though he had moved.
25. I also find Mr. Shoa has not proved his alleged losses. He claims 3 months’ lost rent, but he provided no evidence that he had advertised his property for rent, or that it was unrentable without the shower door. He also provided no evidence to confirm the amount of rent he would have collected during the claimed period.

26. Finally, I also find Mr. Shoa is not entitled to damages for lost rent, even if Home Depot did breach the contract, as lost rent was not a reasonably foreseeable consequence of the breach.
27. Under the legal principle of remoteness, when a contract is breached, the respondent is not liable for losses that were not reasonably foreseeable when the contract was made. See *Al Boom Wooden Pallets Factory v. Jazz Forest Products (2004) Ltd.*, 2016 BCCA 268 at paragraphs 62 to 63 and 77 to 78.
28. There is no indication that Home Depot knew, or reasonably should have known, that Mr. Shoa was leaving the country and would lose rental income if the shower door installation was postponed. Rather, the shower door installation appears to be a relatively minor home repair, and its delay would not typically make a home uninhabitable. So, I find that lost rent was not a reasonably foreseeable loss, even if Home Depot breached the parties' contract.
29. For all these reasons, I find Mr. Shoa is not entitled to any damages for breach of contract. I dismiss his claim.
30. 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. As Mr. Shoa was unsuccessful, I dismiss his claim for reimbursement of CRT fees. Home Depot is the successful party. It paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

ORDER

31. I dismiss Mr. Shoa's claims and this dispute.

Kate Campbell, Tribunal Member