

**SMALL CLAIMS COURT OF NOVA SCOTIA**

**Citation:** *Wilcox v. Artcrete Finishing Ltd.*, 2022  
NSSM 58

**Date:** 20221109

**Docket:** SCCH 514399

**Registry:** Halifax

Between:

Kyle Patrick Wilcox

*Claimant*

- and -

Artcrete Finishing Ltd. (wrongly described as Artcrete Ltd.)  
and Arthur Sampson

*Defendants*

**REASONS FOR DECISION AND ORDER**

**Adjudicator:** Eric K. Slone

**Heard:** Via zoom on November 7, 2022 in Halifax, Nova Scotia

**Appearances:** For the Claimant, self-represented

For the Defendants, self-represented

**BY THE COURT:**

[1] The Claimant is seeking damages for what he alleges is substandard work by the Defendants on his home in Tantallon, Nova Scotia.

[2] The Defendants, as named, are not precisely who the Claimant contracted with. In fact, Artcrete Ltd. does not exist; it should be Artcrete Finishing Ltd. And though Arthur Sampson personally is one of the owners of that company, there is no basis to hold him personally responsible for anything his company did. The claim against him personally will be dismissed.

[3] I will treat the claim as if it had been brought against Artcrete Finishing Ltd., which will hereafter be referred to as “Artcrete,” or “the Defendant.”

[4] Artcrete specializes in stamped concrete work, which Wikipedia conveniently defines as follows:

**“Stamped concrete is concrete that has been imprinted, or that is patterned, textured, or embossed to resemble brick, slate, flagstone, stone, tile, wood, or various other patterns and textures.”**

[5] The Claimant and his wife were building their retirement home in 2019 and took up residence in December 2019. The last major component that could not be tackled at that time of year was the concrete pads in the sunroom and on the outside patios and a walkway.

[6] The Claimant had started arranging quotes for this work before winter and entered into a contract with the Defendant for work to begin in early May 2020. This just happened to coincide with the early phase of the Covid 19 pandemic, which created some challenges for the job, as I will touch on later.

[7] According to the Claimant, the job did not go smoothly. In the end, there are alleged problems with the largest of the pads, which covers 326 square feet. The allegation is that it does not have full 2% grading, causing water to pool in two areas. There is also some staining close to the house where some of the sealant was allegedly put on too thick, and it suffers from the effects of trying to remove that sealer.

[8] Some attempts to deal with these deficiencies took place, but the

relationship became unusually hostile between the Claimant and Mr. Sampson. The details of that are not important but suffice it to say that the Claimant does not want Mr. Sampson back on his property. The Defendant would go back, but only if the Claimant and his wife are not present.

[9] The Claimant is proposing to have the problematic pad removed and replaced at a significant cost which he places at \$7,056.49.

[10] The total cost for the job, which was paid, was \$11,810.50. The Claimant paid the bill in good faith, notwithstanding that he had some complaints about the work.

[11] The Claimant produced an estimate from the company Archadeck, which quotes \$17,144.00 + HST for demolishing and replacing the stamped 326-square foot concrete patio.

[12] The Claimant did not provide any estimate for repair or remediation of the patio. I am unconvinced that it requires total replacement.

[13] Mr. Sampson testified that he would do the following:

- a. The discoloured areas around the house would be stripped with xylene and refinished. This might have been done back in 2020, but there was a Covid-related shortage of xylene and of the personal protective equipment that he or his employees would need to wear to protect against the negative health effects of xylene.
- b. He admits that there is a minor low spot on the concrete pad that does not drain properly. He says that the proper approach is to saw out a section of the concrete, repour it and stain to match. He says that this will make the drainage work as intended and will still look attractive.

[14] The Claimant did not provide any expert testimony that would support the theory that full removal and replacement is necessary. On balance I am satisfied that the Claimant is entitled to a workmanlike job, which can be achieved through repairs.

[15] Ideally the Defendant would be permitted to effect the repairs, but it is not the policy of this court to force hostile parties to work together. That would place the court in the awkward position of having to supervise or police the work.

[16] I cannot place exclusive blame on either party for the state of the relationship.

[17] In the absence of solid evidence to support the cost of repair, I propose to award the Claimant \$1,500.00 as compensation. This is three times as much as the somewhat token \$500.00 that the Defendant offered the Claimant initially as a goodwill gesture and reflects the fact that this was not the Defendant's best work.

[18] I appreciate that it is much less than the Claimant has asked for, but as I have observed I do not believe he has proved his case for a complete replacement of the patio.

[19] The Claimant shall also have his costs of \$99.70 to issue the claim and \$115.00 to serve it.

### **ORDER**

[20] THIS COURT ORDERS that the Claimant shall have judgment against the Defendant Artcrete Finishing Ltd. in the amount of \$1,500.00 plus costs of \$214.70, for a total of \$1,714.70.

[21] THIS COURT FURTHER ORDERS that the claim against Arthur Sampson is dismissed.

**Eric K. Slone, Adjudicator**