

**BETWEEN**

**EB**  
APPLICANT

**AND**

**UY**  
RESPONDENT

Date of Order:

11 December 2015

Referee:

Referee Perfect

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**ORDER OF THE DISPUTES TRIBUNAL**

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**The Tribunal hereby orders that the respondent, UY, is to pay the sum of \$1966.83 directly to EB on or before 8 January 2016.**

## **Facts**

[1] EB engaged UY to carry out work on his bathroom, including removing the existing fittings and surfaces, tiling, replacing floor and some gib, painting and installing a walk-in shower and as well as some work in a separate toilet.

[2] The work was completed and EB paid around \$7000.00 in total as invoiced by UY. In early December 2014, about 6 weeks after completion, EB emailed a list of problems to UY, mainly minor issues that needed completing or minor remedial attention. By late January 2015, he emailed UY photographs of water leaking from the new shower. Over the following six months, UY returned several times to attempt remedial work to address these issues.

[3] The leaking from the shower had not been rectified by July 2015 and EB engaged a tile and water-proofing consultant at that time to inspect the shower and write a report. The consultant identified problems with the shower construction and the water-proofing and advised that it needed to be rebuilt.

[4] EB subsequently obtained quotations for that work and claims \$1666.83 labour quoted and materials, and \$300.00 for the cost of the consultant's report.

## **Issues**

[5] The issues to determine are:

- A. Did UY carry out his services with reasonable care and skill and is the finished product of acceptable quality as per the Consumer Guarantees Act 1993 (CGA)?
- B. What remedy, if any, is available to EB?
- C. What are the reasonable costs to remedy and any reasonably foreseeable losses

*Did UY carry out his services with reasonable care and skill and is the finished product of acceptable quality as per the Consumer Guarantees Act 1993 (CGA)?*

[6] I find that UY did not carry out the bathroom renovation services with reasonable care and skill and that the finished product was not of acceptable quality. I note that UY made several attempts to remedy the problems of leaking from the shower but was not successful.

[7] The independent report obtained by EB details both the issues and the causes, the conclusion in the report reading “This whole job has been very poorly done with little knowledge of waterproofing or tiling correctly”. The report writer provided sufficient detail and photographs in the body of the report to support this conclusion.

[8] UY did not dispute the overall conclusion, saying that he has little experience with this sort of renovation, that he did his best, and that EB knew he was hiring a handyman, not a tiler.

[9] However, this does not remove UY’s obligations to his customer under the Consumer Guarantees Act and he is bound to meet the statutory guarantees provided by the Act.

[10] UY further suggested that the cause of the leaking was the EB’s use of the shower prematurely, something EB denied and questioned how UY would know. Even if the shower had been used too soon after installation, the report details many issues with the construction and waterproofing methods that would lead to the problems seen and which better explain the problems experienced by the EB’s.

*What remedy, if any, is available to EB?*

[11] Given that UY has already attempted to remedy the problems and this has been unsuccessful, EB is entitled to have the work carried out by another supplier and recover the costs of that from UY. I accept that, due to the deficiencies identified in the report, the remedy is that much of the work needs to be redone.

[12] EB is also entitled to recover the cost of the independent inspection and report given that this was obtained prior to Tribunal proceedings commencing

*What are the reasonable costs to remedy and any reasonably foreseeable losses?*

[13] I find that the actual and reasonable remedial costs are accurately represented by the invoice supplied in evidence, detailing \$1391.50 labour and \$150.00 materials plus two invoices for tiles purchased by EB totalling \$125.33. The cost of \$300.00 for the independent inspection report is also awarded, bringing the total ordered to \$1966.83.