

BETWEEN

GM
APPLICANT

AND

SNS Ltd
RESPONDENT

Date of Order:

26 September 2018

Referee:

Referee: Costigan

ORDER OF THE DISPUTES TRIBUNAL

The Tribunal hereby orders that GM is to pay SNS Limited \$290.95 on or before 17 October 2018.

Facts

[1] Mr GM seeks a declaration of non-liability in relation to an invoice from SNS for \$290.95. The dispute has arisen because that unpaid invoice related to SNS being called back by Mr GM as his hot water cylinder was found to be leaking a month after SNS had already repaired a leak to it (and for which Mr GM paid in full). If the Tribunal does not consider a declaration of non-liability can be made it can order an unpaid invoice to be paid.

Issues

[2] The issues I need to decide are:

- a. Is it more probable than not that the second leak was due to a lack of reasonable care and skill in SNS repairing the first leak?
- b. If so, should the second invoice be paid?

[3] The Consumer Guarantees Act 1993 (CGA) applies and requires all work by SNS be carried out with reasonable care and skill, and that any costs not agreed in advance be reasonable.

Is it more probable than not that the second leak was due to a lack of reasonable care and skill in SNS repairing the first leak?

[4] In his claim as filed Mr GM explained the plumber that attended the second leak stated that the hemp had been put on the wrong way. Mr GM explained in more detail at the hearing today that he considers that Teflon tape would have been a more appropriate tape to have used in the repair. Further that the area repaired at the time of the first leak should have been more thoroughly checked to see if there was degrading hemp and he raised the possibility that the first repair had seen the relevant joint overtightened causing the second leak.

[5] Whilst I can see how Mr GM has formed his opinion about the workmanship at the time of the first repair, he has not satisfied me that it was in fact not carried out with reasonable care and skill.

[6] I say this as I am satisfied the second leak was at a physically distinct location to the first leak. Two separate cross joints were repaired. I consider that as the first repair was tested and did not leak at that time it is not likely that there was overtightening causing the second leak, nor would that have put the plumber that attended that first call on notice that other joints required checking. Further I have not been persuaded that the use of hemp by a plumber is not a reasonable method to take in undertaking repairs of this nature.

[7] Although SNS has suggested that chlorinated water may have played a part in the second leak, I do not consider it clear that has been established. However, Mr GM has not satisfied me the second leak is the responsibility of SNS.

[8] In terms of the invoice I am satisfied the fee charged, while more than the first invoice, is reasonable given it related to afterhours work at a higher rate.

[9] Accordingly, I do not grant Mr GM's application for the declaration but order he pay the invoice as set out above.