IN THE MATTER OF	*	**MARYLAND HOME**
THE CLAIM OF JERIMIAH SABIR		**IMPROVEMENT COMMISSION**
AGAINST THE	*	
MARYLAND HOME IMPROVEMENT		
GUARANTY FUND ON ACCOUNT OF	*	**Case No. 20(90)929**
ALLEGED VIOLATIONS OF		
CALVIN BAINES t/a SERVICE OF	*	
ALL TRADES, LLC	*	

* * * * * * * * *

FINAL ORDER

On this 27th day of January 2021, Panel B of the Maryland Home Improvement Commission ORDERS that:

1. Pursuant to Business Regulation Article, §8-408(b)(3)(i), Annotated Code of Maryland, the Claimant has provided the Commission with a copy of a final arbitrator's decision dated August 5, 2020, in which the arbitrator found on the merits that the conditions precedent to recovery, as set forth in Business Regulation Article, §8-405(a), Annotated Code of Maryland, have been met, and found that the Claimant sustained an actual loss of $3,000.00.

2. The Commission, in a letter dated December 7, 2020, advised Respondent that the Commission intended to award the Claimant $3,000.00 and that the Respondent had 21 days to submit to the Commission any reasons why the Commission should not pay the award to the Claimant.

3. The Respondent did not reply to the Commission's letter.

4. The Commission directs payment from the Home Improvement Guaranty Fund of $3,000.00 to the Claimant, Jerimiah Sabir.

5. Pursuant to Business Regulation Article, §8-411(a), Annotated Code of Maryland, any home improvement licenses held by the Respondent, Calvin Baines t/a Service of All Trades, LLC,

shall be suspended, and the Respondent shall be ineligible for any home improvement licenses until the Respondent has repaid any money paid from the Home Improvement Guaranty Fund pursuant to this Order, with 10 percent annual interest.

6. The records and publications of the Maryland Home Improvement Commission shall reflect this decision.

Joseph Tunney
Chair

AMERICAN ARBITRATION ASSOCIATION

Construction Industry Arbitration Tribunal

Case Number: 01-20-0005-1482

Dr. Jerimiah Sabir,

Claimant,

v.

Calvin Baines; Services of All Trades LLC,

Respondent.

AWARD OF ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into by the above-named parties and dated September 23, 2019 and having been duly sworn, and oral hearings having been held in accordance with the Rules, and having fully reviewed and considered the written documents submitted to me by *pro se* Claimant Dr. Jerimiah Sabir and *pro se* Respondent Calvin Baines, do hereby AWARD as follows:

Date of Hearing: July 28, 2020

Place of Hearing: Zoom Videoconference

This case was conducted under the Fast Track procedures of the Construction Industry Arbitration Rules as amended and in effect July 1, 2015.

Introduction

On or about May 5, 2020, the Claimant filed a Demand for Arbitration with the American Arbitration Association (AAA). The claim stated that the Respondent was in breach of a contract dated September 23, 2019. The contract required that any disputes be resolved by Arbitration, using the rules of the American Arbitration Association.

The Respondent did not file a response to the Demand. Even though the Respondent did not respond to the demand, his participation in the pre-conference hearings of July 1 and July 2, 2020 acknowledges his receipt of the demand and agreement to participate.

On July 2, 2020, the Arbitrator conducted a Zoom-based Preliminary Hearing. Both parties participated in the hearing. On or about July 2, 2020, the AAA published the Arbitrator's Report of Preliminary Telephone Management Hearing for Fast Track Arbitration Report. The report

documented the Arbitrator's order that by July 7, 2020, the Claimant submit to AAA an itemized claim list. Further, by July 20, 2020 both parties were to submit a witness list and exchange a set of exhibits.

By the July 20, 2020 deadline, the Claimant submitted a witness list and exchanged exhibits with the Respondent. The Respondent did not submit a witness list or exchange exhibits with the Claimant.

As part of a July 24, 2020 order, the Arbitrator denied the Respondent's request for postponement without prejudice, agreeing to allow the Respondent to be heard prior to the opening of the July 28, 2020 evidentiary hearing. On this date, the Respondent was asked if he wished to be heard. The Respondent did not wish to be heard so the hearing proceeded as scheduled.

Hearing

On July 28, 2020 at 9:00 AM the hearing on the above action was opened. After resolving technical difficulties, testimony began at approximately 9:20 AM. The hearing was conducted via Zoom videoconferencing.

The following parties were in attendance.

For the Claimant- Dr. Jerimiah Sabir

For the Respondent- Mr. Calvin Baines, Services of All Trades LLC, and Ms. Sonya Hill, Services of All Trades LLC

All parties appeared pro se. During the preliminary hearing, they were reminded of their right to counsel.

All parties took a standard oath.

No witnesses were called by either party.

Claimant's Claim

The Claimant Claimed the following damages:

Compensatory- $15,820

Punitive Damages- $3,000

Claimant's Case

The Claimant claimed that the Respondent violated Article 2 and Article 5 of the contract. Article 2 stated:

> Article 2. Time of Completion

The work to be performed under this Contract shall be commenced on or before September 25, 2019 and shall be substantially completed on or before October 8, 2019. Time is of the essence. The following constitutes substantial commencement of work pursuant to the Proposal Of Work Order..[1]

Article 5. General Provisions

Any alteration or deviation from the above specifications, including but not limited to any such alterations of deviation involving additional material and/or labor costs, will be executed only upon written order for same, signed by Owner and Contractor, and if there is any charge for such alteration or deviation, the additional charge will be added to the contract price of this contract. If payment is not made when due, Contractor may suspend work on the job until such time as all payments due have been made. A failure to make payments for a period in excess of 48 hours from the due date of the payment shall be deemed a material breach of this contract.[2]

The Claimant argued that the Respondent failed to substantially complete the work on or before October 8, 2019. The work that was completed was far below the standards of quality promised by the Respondent (Claimant Exhibit P-5 including, P-5 -1 thru P-1-5). Claimant exhibit P-5 also contained a letter from Rush and Sons, LLC that on February 3, 2020, a representative inspected the home, confirming the condition of the partial installation.

As for completion of the contract, alterations from the contract dates were supposed to be done in writing, by written signed order.[3] The Respondent was still performing work as of October 24, 2019 but walked off the job before finishing. There was also no written evidence presented that indicated mutual agreement of a change in dates.

Upon questioning by the Claimant, the Respondent stated that the contract did not specifically mention the application of Duron to the floor. The Claimant further argued that the contract was general but the Proposed Work Order stated:

I propose to perform all labor necessary to complete the following:

- Demo areas as discussed between Service Of All Trades and J & A Design and Development
- Remodel bathroom with special shower tile and floor tile
- Remodel fireplace with new tile
- Replace damage area in master bathroom (per conversation)

[1] Dr. Jerimiah Sabir and Service of All Trades, LLC. (September 23, 2019). Contractor Agreement. (p. 1).
[2] Ibid., p. 5.
[3] Ibid., p. 2.

- Materials supplied by J & A Design and Development LLC[4]

Respondent's Case

The Respondent chose not to present a case or exhibits.

Upon questioning by the Claimant, the Respondent claimed he walked off the job because the Claimant wanted to supervise. On October 24, 2019, he ordered his workers to pack up the tools and leave. There was a heated verbal discussion between Ms. Hill and the Claimant that led to the Westminster Police being called. No arrests were made.

Upon questioning by the Arbitrator, the Respondent admitted that most tile installation jobs include Duron installation. Failure to do so will reduce the tile life to two to three years. The Respondent also stated that since Duron was not specific within the contract, he was not obliged to install it.

Discussion

The case centers around whether the Respondent breached the contract and how much the Claimant is entitled to. Compelling evidence exists supporting that the Respondent breached the contract. Three main points support the claim.

1. The contract will be substantially completed by October 8, 2019. Although the term "substantially" is not defined in the contract, a reasonable person would conclude that the Respondent did not fulfill its obligation. Further, there were no written agreements presented that modified the dates of the contract.
2. The Claimant's evidence clearly showed that the quality of workmanship for the work that was partially completed was below industry standards for a licensed contractor.[5]
3. The Respondent's argued that Duron was not included in the contract. This argument fails because the contract states that the tile will be installed without exclusions. Further, Article V, Sub-section 1 states:
   1. All work shall be completed in a workman-like manner and in compliance with all building codes and other applicable laws.[6]

   By the Respondent's own admission, Duron installation was a necessary item to insure a professional, industry standard job as per the above.

   The Claimant's request for damages was at times unclear and non-specific. He was allowed to submit a post-hearing brief that was received in proper time. The Respondent objected to the post-hearing brief, but that is denied.

   The party's actions of October 24, 2019 leave question as to the level of damages that should be awarded. The Defendant walking off the job because the Claimant wanted to

[4] Dr. Jerimiah Sabir and Service of All Trades, LLC. (September 23, 2019). Proposed Work Order. (p.2).
[5] Plaintiff's Exhibit P-5, pictures P-1A thru P-5A.
[6] Dr. Jerimiah Sabir and Service of All Trades, LLC. (September 23, 2019). *Contractor Agreement*. (p. 2).

supervise is not covered under the contract (which was already breached). The need for the police to escort the Respondent out likely provoked the Respondent into not wanting to come back. Although this could be reasonable, it does not affect the above findings.

After questioning by the Arbitrator (and post-hearing brief), the Claimant identified his specific damages as:

Compensatory

1. Money paid to the Defendant- $3,000.00
2. Materials supplied to the Defendant- $3,177.46

Award

Having reviewed all evidence submitted via the AAA portal and the video hearing, the Arbitrator rules as follows:

1. The Respondent shall pay the Claimant $6,177.46 for compensatory damages.
2. The Respondent shall pay the Claimant $375.00 for his half of the AAA filing fee.
3. The Respondent shall pay the Claimant $400.00 for his half of the final fee.
4. The Claimant and the Respondent shall each pay to AAA $625.00 for their portion of the Arbitrator's fee.

Payment to the Claimant is due within 30 calendar days of this ruling.

This Award is in full settlement of all claims and counterclaims submitted to this Arbitration. All claims not expressly granted herein are hereby denied.

I, Harold Craig Cohen, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument which is my Award.

August 5, 2020 HAROLD COHEN

_____ _____

Date Harold Craig Cohen