

In the London Arbitration Centre

Case No. IC5622

Consumer Dispute (Alternative Dispute Resolution) Regulations 2015

The ADR official; Ayub Sadiq Solicitor with an expert Joseph McCormick

Date of decision; 14<sup>th</sup> November 2022

Between



Consumer

And

Pleasant View Home Improvements Limited

Trader

### **Final Decision**

#### Background

This is a claim by the consumer against the trader in relation to landscaping works carried out by the trader at the consumer's property in 2021.

The cost of the works was agreed in the sum of £13,180.00. This sum was broken down in a quotation dated 22nd May 2021;- *£10,000 for taking out hedges and privacy board opposite the back door levelling up three tiers, retaining walls x 2 Indian stone to bottom tier round to back door and single level sleepers across the back hedge*

*£3180 for fencing gravel boards and post both sides of the garden.*

The consumer was not satisfied with the work carried out by the trader. The parties were not able to resolve the dispute themselves. This led to a referral of the dispute to the London Arbitration Centre Limited (LAC) to resolve the dispute using Alternative Dispute Resolution (ADR).

#### The law

The dispute is whether the work carried out by the trader was to a satisfactory standard. Section 49 of the Consumer Rights Act 2015 (the 'Act') states;- *Every contract to supply a service is to be treated as including a term that the trader must perform the service with reasonable care and skill.*

#### The application of the law

The issues are essentially questions of fact as to what is an acceptable standard of work. An expert in landscaping construction was appointed by the LAC. The expert is independent of both parties to the dispute.

In reaching my final decision I have been aided by Joseph McCormack, the expert, who carried out an inspection of the works and provided a report. I have annexed a copy of his report hereto.

### Conclusions

Based upon the findings of the expert, I find that the trader failed to use reasonable skill and care in the manner set out by the expert in his report. I also find the consumer suffered loss to the amount set out by the expert.

I find that the trader should also reimburse the consumer the half cost of the expert in the sum of £265.00. This is to be added to the amount payable.

### Order

The trader is ordered to pay the consumer £4,675.00 within 28 days of the date of this order.

Ayub Sadiq  
ADR Official

# J McCormack

## SURVEY & DEFECT ANALYSIS REPORT

- 1, Client, London Arbitration centre case no IC5622
2. Property, 64 Thornley Rd
3. Works carried out by Pleasant view Home Improvements.
4. Inspection date 13<sup>th</sup> October at 12:30 pm
5. Instruction's, to undertake a defect analysis and investigate quality of workmanship of various works carried out to the rear of the property.
6. Limitations, only visual and photographic inspection, no below ground inspections were made.
7. Inspection conditions, the weather was clear and dry, I was able to access all areas of the rear garden.
8. Points 1-19 as detailed in the online claim form as follows.

1/ On inspection there were no drainage ports to the new sleeper retaining wall onto the patio this suggests that no drainage has been put in place although it can be put in behind the wall at ground level during construction, the conversation between the house owner and building company suggests that no drainage has been put in place.

Good building practice recommends on a retaining wall of this height that a drainage system be used to prevent the timbers being saturated this could be a layer of gravel against the sleepers with drain ports at the base onto the patio you may also place a sheet of dpm to the back of the sleepers to prevent any water seeping through the joints and staining the timber.

Some of the sleepers have bowed due to the weight of the fill behind them this could be prevented by adding a metal strap or timber post fixed to the back of the sleeper's mid-section.

Cost of remedial work £700.00

2/The sleepers to the hedges seem to be to a reasonable height which is up to the level of the hedge base new growth should fill any gaps in the hedge in due course.

No remedial action required.

3/The metal posts used to hold the sleepers are poorly finished, they should all be finished at the same height just below or level with the sleepers and neatly finished.



This is an example of what is required.

4/ Indian stone flags to Patio.

The Indian stone flags that have been used for the patio are riven and not completely smooth, the tolerance when laying these flags is usually raised from 2mm to 5mm, they can still achieve a good finish if laid to standard and should only hold water in the any deviation in the flag itself.

I have been led to believe the flags have been laid using dots of mortar which is not an acceptable way of laying any type of flagstones, the flags are also quite uneven in places which will cause puddling of rain water, and the joint sizes are not uniform.

BS 7533 requires a full uniform bedding layer for each flagstone.

Spot bedding or picture framing is not a recognised way of laying flags in the industry as it leaves hollows under the flags that can fill with water that can freeze and move the flags or wash away the sub terrain they are more likely to fracture being hollow in places.

The voids provide a readymade home for invertebrate's particularly ants who love to mine unbound bedding and/or sub grade.

The flags have been laid below dpc and the block paving has been lowered to allow for this,

The damp in the house is likely to be caused by another reason such as penetrating damp or rising damp due to cavity fill or the breakdown of the dpc.



Remedial action required.

Flags to be lifted cleaned and re-laid on full bed of mortar with neat joints and no hollows in flags over 5mm.

Cost£2400.00

## Atco drain/sink waste

The sink waste should run directly into a foul water gully, if the house foul and surface water are a combined system it still needs to run direct into the foul gully.

I was not able to determine whether the house uses a combined or separate system and have asked the owner to find out. The sink waste gully also needs to be accessible to clear any debris this has been made impossible due to the atco drain crossing over the gully with just a hole drilled in to allow the sink waste to run into, but the sink waste runs directly into the atco drain and the water from the sink is running along the atco drain and round the corner leaving sink waste to build up in the Atco drain and is causing smells and possible vermin.

## Remedial action required

If the house is on a separate system for the foul and surface water the Atco drain requires adjustment to direct only surface water to the rain water drains and the sink waste run directly into an accessible foul water gully.

The Atco drain also requires a proper 90° corner unit fitted as the drain covers cut at 45 degrees are too weak.



Cost if separate systems£480.00

If the system is combined the work required is reduced to putting the sink waste directly into the gully and making the gully accessible for cleaning

Cost if combined systems£250.00

## 5/ Fencing.

Some of the fencing posts are not plumb and the panels are not at the same height or rising uniformly and the gravel boards do not quite reach the ground in places but the house owner has stated that they can live with these issues but her main problem with the fencing is the short height if the boards to the left side neighbour and the fencing that is partially over the manhole cover on the neighbour to the rights land.



As Manhole covers are required to be accessible a discussion with the neighbour would be needed to reduce the position/size of the manhole cover.

The fence panels to the left would need to be raised to the height of 1.8mts on the neighbour's side any higher would require permission from the neighbour.

Cost of remedial work £360.00

#### 6/ Garden levels

The raised garden have not been levelled properly, the 1<sup>st</sup> tier is not far out of level and could be down to settlement but would not take much work to level the soil more evenly.

The top tier is quite a lot out of level and need any excess soil removed from site leaving any tree stumps for the house owner to deal with.



Cost of remedial work £380.00

#### 7/ Block paving.

The block paving has been sloped to meet with the height of the flags whilst the is not preferred by the house owner it is a reasonable method of joining the two levels and is not the cause of any puddles as the block paving was sloping towards the rear of the house to begin with.

No remedial work required.

#### 8/ Front drive damage.

Any dips and hollows in the front drive could be long standing and cannot be proven to have been caused by PVHI however the cement stains have been caused by mixing mortar and require a cement descaling acid to clean of the cement stains.



Cost of remedial work £60.00

#### 9/gate not fitting

The house owner accepts the gate, no further action required.

#### 10 Trench left in next door side of fence.

Any trenches or settlement on next doors side of the fence can be sorted when levelling the 1<sup>st</sup> and 2<sup>nd</sup> tiers if agreed with the neighbours.

#### 11/ cement on drive.

This item is covered under item 8.

#### 12/Damage to shed.

The house owner has accepted the minor repair made to the shed.

#### 13/ Rainwater pipe.

The rainwater pipe is poorly fitted and requires moor clips and existing clips to be fit properly.





Cost of remedial work £30.00

14/ Stump grinder cost.

To be determined by others.

15/Manhole cover access.

This is covered in item 5.

16/Resin colour.

There is a small area where the resin seems to be a different colour this will be rectified in the relaying of the flags.

17/ Metal gate bent.

The house owner has agreed to deal with these themselves.

Items 18 & 19 have been covered in the above items

.In conclusion the overall workmanship and attention to detail has been poor, the remedial works mentioned above are the minimum works required to bring the work carried out up to a standard of workmanship that is accepted in the industry.

The total cost of remedial work required £4410.00

I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

JJ McCormack

