

Citation: *Naylor v. Lammers*, 2026 YKSM 2

Date: 20260417
Docket: 25-S0018
Registry: Whitehorse

SMALL CLAIMS COURT OF YUKON
Before His Honour Judge Christie

TRAVIS NAYLOR

Plaintiff

v.

LISA LAMMERS

Defendant

Appearances:
Travis Naylor
Lisa Lammers

Appearing on his own behalf
Appearing on her own behalf

REASONS FOR JUDGMENT

[1] The Plaintiff, Mr. Travis Naylor, is the sole proprietor of Cedarvale Construction Yukon. He brought a Claim seeking \$3,792.10 from the Defendant, Lisa Lammers, for a renovation project for unpaid labour and materials.

[2] Ms. Lammers brought a Counterclaim for \$5,760.39, with a deduction for what she believes is the amount owing to Mr. Naylor, in the amount of \$1,480.00. Therefore, she is ultimately seeking \$4,280.39 from the Plaintiff.

[3] The trial took place on November 21, 2025. The parties each provided several documents in support of their respective positions, and each testified on their own

behalf. While I have considered all the evidence and material, I will refer only to those relevant to this decision

Overview

Travis Naylor's Evidence

[4] The parties had an oral agreement for work to be done by Mr. Naylor at Ms. Lammers' residence. Specifically, that work was for renovation of her kitchen. That is, removal of flooring, cabinets, and counters followed by installation of new flooring, cabinets, and counters.

[5] Mr. Naylor explained that he wanted a written contract and Ms. Lammers said that she also wanted to have a written contract, but the parties could not agree on the terms. Specifically, Ms. Lammers wanted to have a proposed contract to review and potentially revise if she did not agree with any of the terms. The parties ended up proceeding on the basis of an oral agreement, which became problematic when misunderstandings and disagreements arose.

[6] Mr. Naylor initially claimed he commenced work on August 13, 2024, but later corrected this to August 12, 2024. He explained that he removed the vinyl floor, scraped the old glue with a heat gun, removed the existing cabinets and countertops, installed and glued down new subfloor, and installed 80% of the new vinyl tile.

[7] On August 15, 2024, Ms. Lammers came home and told Mr. Naylor that the direction of the tiles was incorrect. He says that she "began to shout and become very hostile and requested a discounted rate." When he attempted to explain to her that the

tiles were laid out that way to stop potential leaks from ruining the entire length of the floor, as had happened to her previous floor when it flooded, that when they had discussed the direction of the flooring beforehand, he says that “she would simply not listen,” and that “she continued to become more aggressive and aggravated”, until he left feeling unsafe.

[8] When Mr. Naylor attempted to contact her the next day to determine how to go forward, the parties mutually decided the work would be discontinued and that Mr. Naylor would send her the bill. The bill he sent to Ms. Lammers was for \$3,792.10, which Mr. Naylor breaks down as follows:

Dates: August 12 - 16, 2024

Total Labour: 31.5 hours @ \$92/hour =	\$2,898.00
Materials	\$ 530.00
Dumping Fee	\$ 200.00
GST	\$ 164.10
Total	<u>\$3,792.10</u>

Description of work completed:

- i. Removal of cabinets, counters and flooring;
- ii. Waste disposal;
- iii. Subfloor preparation and installation; and
- iv. Flooring installation to -80% completion (halted by Defendant).

[9] Mr. Naylor submits that the \$200 waste disposal cost reflects the actual cost incurred.

[10] With respect to materials, there is a discrepancy between the total submitted of \$530.00 and the Home Hardware receipt dated August 13, 2024, which shows a total of \$366.10. Mr. Naylor provided an explanation of this in his “Submission Summary” filed November 18, 2025, wherein he explains that the amount was increased “to account for handling, transportation, and standard trade markup.”

[11] Mr. Naylor submits that he performed substantial carpentry and renovation work at an hourly rate of \$92 per hour, plus the cost for materials, that Ms. Lammers benefited from this work, allowed it to proceed over multiple days, and only objected after the majority of the flooring had been installed. He denies poor workmanship, errors, or damage caused by his work. He also contends that Ms. Lammers’ complaints could have been addressed and corrected if she had communicated constructively with him. Mr. Naylor explains that on August 15, 2024, he was 80% complete with installing the flooring but was unable to complete the job because Ms. Lammers was “hostile over tile direction,” and that she stopped him from doing anything further and ended the oral contract. He explained that:

At this point, Ms. Lammers came home and became upset over the direction of the tile and abruptly stopped the job claiming they were laid incorrectly and ordered me to leave. I removed myself from the premises for safety reasons due to her drinking, hostility and refusal to let me speak or communicate in response.

[12] Mr. Naylor denies the allegations of poor workmanship and explains that, instead, he was not given an opportunity to complete the work or clean up the work site. He says that his work was professional and done properly. He also denies the allegations that he damaged Ms. Lammers’ property.

[13] Afterwards, there were messages exchanged about the invoices and payments, but no payments were made. As a result, Mr. Naylor filed this Claim on December 18, 2024, and Ms. Lammers filed her Counterclaim on April 7, 2025.

Lisa Lammers' Evidence

[14] Ms. Lammers explained that she initially engaged with Mr. Naylor on Facebook on April 28, 2024. They had ongoing discussions about the renovation projects she wanted done. Ms. Lammers provided a detailed chronology of the work performed from August 12 to 15, 2024. She submits that Mr. Naylor worked 18.5 hours and that the agreed upon rate was \$80 per hour, for a total of \$1,480, which she has applied to offset her Counterclaim as follows:

Expense	Notes	
Floor removal	Paid cash to Dale Lammers	\$200
New flooring and Installation	Paid Canada Flooring	\$1,267.39
Dump expenses	Estimate from Ice Age Services Ltd.	\$250.00
Torn vinyl decking	Estimate Alpine	\$210.00
Drywall repair	Estimate Small contractor	\$160.00
Meals	Calculated at \$200 per day	\$2,800.00
Repair pantry shelf		\$240.00
New dining chairs x 4	\$115.00 each plus S&H	\$633.00
Total		\$5,760.39
Balance owed to Travis		\$1,480.00
Total counterclaim		\$4,280.39

[15] Ms. Lammers testified and provided photographs of the damaged vinyl decking, drywall, pantry shelf, and dining room chair.

[16] She explained that Mr. Naylor cut the bottom of her built-in pantry shelf on the supporting side to install the flooring in that area rather than take the extra time to carefully uninstall the pantry shelf and reinstall it after the flooring was installed, as she had specifically asked. As a result, the pantry shelf must be rebuilt to be safe.

[17] With respect to the flooring, Ms. Lammers contends that Mr. Naylor did not follow her directions or the installation instructions properly, that he misrepresented his expertise, he caused a significant amount of damage to her property, and unnecessary expenses for meals because of not being able to use her kitchen for two weeks.

[18] The Beaulieu Luxury Vinyl Flooring instructions were filed by Ms. Lammers, and she carefully provided detailed evidence, supported by photographs, messages, and notes that those instructions were not followed by Mr. Naylor in several important respects as follows:

- On page 1 of those instructions, under the section, “Acclimation,” it states that unopened boxes need to be placed in the room at least 48 hours prior to installation. Ms. Lammers says that Mr. Naylor failed to do this.
- On page 2, under the section, “Wooden Substrates,” it states that all fastener indentations and joints should be level and smooth using appropriate patching compounds. However, Mr. Naylor failed to follow

this because he did not use a patching compound, there was no Portland cement or other product used to level the floor.

- On page 3, under the section, “Job Site Condition / Substrate Preparation,” high spots should be levelled, and low spots should be filled with proper material to ensure substrate is flat. The joints were not smoothed, and the knot holes were not filled. All construction seams, expansion joints, and holes should be filled level with the surrounding surface to eliminate telegraphing of such irregularities. Ms. Lammers claims this was also not done.
- Also on page 3, under the section “Patching and Levelling,” there is a recommendation that floor primers be used on porous substrates. That did not happen. For patching and levelling, use only cement-based patching and levelling compounds. That also did not happen. An Embossing leveler is further recommended but it was not used by Mr. Naylor. In response to Mr. Naylor’s argument that he did not have the opportunity to roll the floor before leaving the job, Ms. Lammers contends that as shown in the materials list, he charged her for a floor scraper. She submits that it would be strange that he would not have a common tool like a floor scraper, but that he did have a leveler. Further, Ms. Lammers submits that it does not make sense how he installed, from his perspective, 80% of the flooring without levelling in advance.

- On page 4, in the last bullet section entitled “Prior to Installation,” it states the following, “Determine in which direction the planks / tiles will be installed. It is recommended that the flooring be installed running parallel to the longest wall.” Ms. Lammers asserts that this is what she explicitly asked Mr. Naylor to do and that she did so because of the explicitly worded instructions and because, in her words, “It’s aesthetically pleasing.” She further explains that “it seems to me that this is pretty common knowledge in flooring installation as it runs parallel to the longest wall and that would match the existing flooring in the two adjacent rooms. I have a bedroom adjacent to the kitchen and the dining room adjacent to the kitchen.”

- Also on page 4, under the section, “Residential Installation,” item number 3 recommends to “use a patching compound to fill in any cracks and holes of your subfloor. Work the compound into the hole using a putty knife and level it off. Once you have a smooth, even surface sweep or vacuum subfloor thoroughly.” Ms. Lammers asserts that while Mr. Naylor vacuumed the floor, he did not use a proper patching compound but instead used glue to fill the cracks, holes, and joints. As noted on a previous page of this installation guide, Portland Cement should have been used.

- Also on page 4, item number 4, the recommendation is that the planks and the tiles are to be fitted tightly to the walls. On page 5, item number 8, includes the recommendation to make sure there are no gaps

between the planks and tiles. They should be tightly fitted together.

Ms. Lammers asserts that these instructions were not followed as shown in the photograph included in her Counterclaim which shows as she states, “[t]he photo shows unfinished plywood not extended fully to the wall and that it covers water line to the fridge. The water line should come up from the right corner.”

- With respect to installation of the subfloor, she also provided a photograph wherein she points to the gap between the planks. The gap is not filled or sanded. She explains that the gap would be visible following floor installation and, as a result, eventually that flooring would sag into that gap, and you would see a line.

Issues

[19] There are two issues that are pertinent to this case.

1. Was there a valid contract and if so, what were the terms?
2. If there is a valid contract, who breached the contract and what damages would then flow from the breach?
 - a. Is Mr. Naylor entitled to his claim of \$3,792.10 from Ms. Lammers, for the renovation project’s unpaid labour and materials?
 - b. Is Ms. Lammers entitled to her Counterclaim for \$4,280.39 from the Plaintiff, for removal of the renovation work done by the

Plaintiff, damages to her property, new flooring installation, meals, repairs, and replacement furniture?

Analysis

Small Claims Court

[20] The Small Claims Court of Yukon is designed to provide a less expensive, simplified, and faster alternative to civil litigation in superior courts. According to s. 3 of the *Small Claims Court Act*, RSY 2002, c. 204, the Court “shall hear and determine in a summary way all questions of law and fact and may make any order that is considered just”. In an age where litigation is often prohibitively expensive, the Small Claims Court is meant to provide an accessible forum for the resolution of disputes that involve relatively small dollar amounts that do not justify recourse to the more expensive and procedurally complex Supreme Court of Yukon process. Often this means parties represent themselves. As well, even where there is legal counsel involved, as noted by Cozens J. in *B & K Electric Ltd. v. Rupert*, 2008 YKSM 4, the Court should be a forum in which litigants can bring and defend claims without the fear that an unsuccessful suit means shouldering the other parties legal fees (see para. 38).

[21] The burden of proof in a civil case rests with the claimant to prove their case on a balance of probabilities, and on the defendant to prove the case for their counterclaims on a balance of probabilities. As the Supreme Court of Canada stated in *F.H. v. McDougall*, 2008 SCC 53, at para. 49:

[I]n civil cases there is only one standard of proof and that is proof on a balance of probabilities. In all civil cases, the trial judge must scrutinize the relevant evidence with care to determine whether it is more likely than not that an alleged event occurred.

Contract

[22] A contract is defined in a helpful manner by Cozens, J. in *Duplisea v. Wilson*, 2018 YKSM 3, at paras. 74 and 75:

74 Reduced to its simplest form, a contract is made when an offer is accepted. There must be an agreement between the parties on fundamental terms in order for a contract to be made. The parties need to know what they are agreeing on and what services are to be provided in exchange for what consideration or value. There is not an enforceable contract if it cannot be determined with reasonable certainty what the terms are that the parties have agreed to. There must be certainty with respect to the fundamental terms of the contract in order for the contract to be enforceable. Whether the parties have reached an agreement that results in a contract being entered into, and as such imposing enforceable obligations on the parties, is to be viewed objectively. The question to be asked is, would an observer, acting reasonably, apprised of the relevant facts, conclude that the parties have agreed to enter into a legally binding relationship?

75 A contract, with some exceptions, does not need to be in writing to be enforceable. While enforceable, a verbal contract can be more difficult to enforce, as the terms may not be entirely clear in the event that there is a dispute between the parties.

[23] Cozens, J. explained the law regarding oral contracts in *Williams v. WildMan Productions Inc.*, 2008 YKSM 1, at paras. 8 and 14:

8 It is a well established principle of contract law that "... if one party is aware of the other's belief in the existence of a contract, and does nothing to deny it, but acts himself as though there were a contract, he may be estopped from later denying that a contract exists" (Professor Waddams, *The Law of Contracts*, 2nd Edition (Toronto: Canada Law Book, 1984), at pages 70-71. This principle was applied in the case of *Adam v. General Paper Co. Ltd. et al* (1978), 19 O.R. (2d) 574 (Ont.

H.C.) as well as in *Bowen v. Canadian Tire Corp.*, [1991] O.J. No. 48 (Ont. C.J.).

...

14 Although written contracts can provide documentary evidence of the terms that parties have agreed to, oral contracts are equally binding if the court is satisfied that there exists *consensus ad idem* between the parties and the fundamental terms are resolved. The denial by one of the parties of the existence of a contract is, of course, easier to refute when a written contract can be produced. It is more difficult to do so in the case of an oral contract, yet still possible when there is extrinsic evidence in support of the existence of such a contract.

[24] In this case, the contract was based on time and materials. The parties agreed upon the nature of the renovation work, following in-person and electronic communications. The offer to provide renovation services and materials for payment was accepted. However, the parties later recounted a different hourly rate (\$80 per hour versus \$92 per hour) and there was no definitive agreement on the estimated total costs for materials or hours to be performed. The parties each had a responsibility to have done so. Despite these shortcomings, I find that the parties carried on and acted as though there was a contract, with the understanding that renovation work would be done as requested by Ms. Lammers, and that Mr. Naylor would be paid for labour and materials.

Credibility

[25] I find that Mr. Naylor's records and evidence were inconsistent, and not as reliable as Ms. Lammers' evidence. She provided much more detail of dates, times, and the work performed. She was able to show that Mr. Naylor was inconsistent at times with when he would be doing what work and that was partially because of poor

planning and other jobs he had. She explained the events that occurred on August 15, 2024, as follows:

- Mr. Naylor did not remove the ceramic tile from the wall before laying the floor which is standard renovation practice.
- At no point did Mr. Naylor speak to her about changing the direction of the floor that she had explicitly expressed. He did not approach her with any concerns. He unilaterally made ultimate design decisions contrary to her directions and without seeking permission.
- When she saw that the flooring was laid incorrectly, she candidly admitted to being upset and “in tears.” Ms. Lammers denies being hostile. She says that his response was that she was being unreasonable, that he said, “You told me so many things how I was supposed to remember all of it,” and “that I needed to get over it or he couldn't work for me.”
- She explains that she wanted the job done properly and completed but instead, Mr. Naylor quit. He did not clean up or take all his belongings.

[26] I believe Ms. Lammers' version of events because her evidence was corroborated by the photographs, product instructions, text messages, and estimates for repair and reinstallation work that needed to be done. She was much more careful and diligent with recording dates, times, and work done. I find that she was credible and her evidence was reliable.

[27] I find that Mr. Naylor could have done more to remedy the problems with the work done, as it was unacceptable and had to be re-done. I find that he could have communicated better and that he responded unreasonably when the disagreement about the flooring arose.

Contract

[28] I find that Ms. Lammers' accounting of the hourly rate and total hours worked was correct, that is, Mr. Naylor worked 18.5 hours and that the agreed upon hourly rate was \$80, for a total of \$1,480. Both parties agreed about the scope of work and the days of work were monitored and communicated between the parties as it happened.

[29] The scope of the work to be done by Mr. Naylor at Ms. Lammers' residence was for renovation of her kitchen; that is, removal of flooring, cabinets, and counters followed by installation of new flooring, cabinets, and counters. Mr. Naylor's costs for materials were also to be paid for by Ms. Lammers.

Claim

[30] A fundamental breach entitling the innocent party to repudiate the contract must be a breach that goes to the root of the contract and therefore deprives the contracting party of substantially the entire benefit of the very thing for which it contracted (*Angeltvedt v. Flint Field Services Ltd, 2010 ABQB 749*).

[31] A contractor may be found to have breached a contract where they abandon a contract, repudiate the contract, fundamentally breach the contract, or perform the contract in such a way that it is so defective as to amount, in substance, to a failure or

refusal to carry out the contract work. In these circumstances an owner is entitled to terminate the contract, to claim damages for breach of contract, and to be discharged from its obligation to pay on a *quantum meruit* or for work already performed (*D & M Steel v. 51 Construction Ltd.*, 2018 ONSC 2171, at para. 53).

[32] If a contractor demands payment before it is due under the contract or refuses to proceed unless paid, this may be conduct that evidences an intention to no longer be bound by the terms of the contract, amounting to a fundamental breach or repudiation of the contract (*D & M Steel*, at para. 54).

[33] A contractor will not be required to show perfection in carrying out its obligations to be entitled to payment. Where a contractor's mistakes amount to a serious or substantial non-performance or known and concealed departures from the requirements of plans or specifications, a court may reject a claim for *quantum meruit* (*Komorowski v. Van Weel* (1993), 12 O.R. (3d) 444 (CT J (Gen Div)) at p. 27; *Summers v. Harrower* (2005), 49 C.L.R. (3d) 303 (Ont. Sup. Ct.), at para. 15).

[34] Where there have been defects in the contractor's work, but not enough to amount to a fundamental breach, the contractor should be permitted to remedy the defects. The failure by an owner to permit such corrections will disentitle or reduce the amount of damages the owner can claim as a result of a failure to mitigate (*D & M Steel*, at para. 52).

[35] I find that the installation of the floors by Mr. Naylor was done improperly and was unacceptable. The flooring instructions were not followed in several key respects, and I believe Ms. Lammers, that she gave those clear directions, particularly with the

direction of the flooring installation, which were not followed. This was corroborated by the photographs. I do not accept Mr. Naylor's submission that he would have been able to fix the problems and follow the instructions, but for Ms. Lammers ending the work and not allowing him to finish. The failures in installation should have been corrected or done properly in the first place, before the new flooring was installed. I find that it was a term of the contract that Mr. Naylor follow the installation instructions and directions from Ms. Lammers and in the alternative, I also find there was an implied term of "reasonable skill" that could be read into the contract. The result was a fundamental breach of contract.

Counterclaim

[36] I do not find that Ms. Lammers has proven, on a balance of probabilities, that her Counterclaim should succeed in its totality, but I do find she should be partially successful.

[37] That is, I do not find that her Counterclaim for the following items should succeed:

New flooring and Installation \$1,267;

Meals \$2,800; and

New dining chairs \$633.

[38] Ms. Lammers had to pay for new flooring regardless and I have not allowed that part of Mr. Naylor's Claim because of the fundamental breach. I do not find that the meals claimed are reasonable, because people sometimes must adapt to different

circumstances with meal preparation and unforeseen circumstances. It is an unfortunate reality that during, and sometimes in the aftermath of some renovation projects, families must make alternate arrangements for meal preparation and/or other options. On a balance of probabilities, weighing the evidence, I do not accept that Mr. Naylor is responsible for damage to the one dining room chair, or that it would be appropriate to award Ms. Lammers with the replacement cost for a full new set.

[39] At common law, there is an implied term that a contractor will perform his job in a good and workmanlike manner (*Spanos v. Dufferin Tile & Marble Inc.*, 2007 CarswellOnt 8625 (Ont. Sup. Ct. (S.C.)), at para. 27; *Verly Construction Group Inc. v. Berdeklis*, 2005 CanLII 21110 (Ont. Sup. Ct.), at para. 9. The appropriate sum of damages is the amount that will place the innocent party in the same situation they would have been in if the contract had been performed (*Fidler v. Sun Life Assurance Co. of Canada*, 2006 SCC 30, at para. 27.

[40] Therefore, I find that Ms. Lammers' Counterclaim should succeed for the following items:

Floor removal	\$200
Dump expenses	\$250
Torn vinyl decking	\$210
Drywall repair	\$160
Repair pantry shelf	\$240
<hr/>	
Total	<u>\$1,060</u>

[41] Ms. Lammers should be compensated for having the improperly installed flooring removed, which was unrecoverable for use, and the dump expenses.

[42] I find, on a balance of probabilities, that Mr. Naylor is responsible for the torn vinyl decking, and that, because of his improper work and carelessness, he is responsible for the costs of drywall repair and pantry shelf repairs incurred by Ms. Lammers.

Decision

[43] My decision on each of the issues is as follows:

1. Was there a valid contract and if so, what were the terms?

Yes, there was a contract. The terms of that contract are:

Mr. Naylor to provide work at an hourly rate of \$80. The scope of the work to be done by Mr. Naylor at Ms. Lammers' residence was for renovation of her kitchen; that is, removal of flooring, cabinets, and counters. Followed by installation of new flooring, cabinets, and counters.

2. If there is a valid contract, who breached the contract and what damages would then flow from the breach?

- a. Is Mr. Naylor entitled to his claim of \$3,792.10 from Ms. Lammers, for the renovation project's unpaid labour and materials?

No, there was a fundamental breach of the contract, and he is not entitled to compensation for work performed.

b. Is Ms. Lammers entitled to her Counterclaim for \$4,280.39 from the Plaintiff, for removal of the renovation work done by the Plaintiff, damages to her property, new flooring installation, meals, repairs, and replacement furniture?

Yes, in part. The Defendant, Ms. Lammers, is entitled to \$1,060 from the Plaintiff.

Costs

[44] Ms. Lammers shall be awarded the following:

- \$200 for preparation fees, pursuant to s. 7 of the *Regulations*;
- \$300 as compensation for inconvenience and expense, pursuant to s. 59 of the *Regulations*; and
- Filing fees, and fees for service, pursuant to s. 74 of the *Regulations*.

[45] Pursuant to s. 60 of the *Regulations*, Ms. Lammers is entitled to pre-judgment interest pursuant to the *Judicature Act*, RSY 2002, c. 128, from the date of her Counterclaim filed on April 7, 2025. I also award her post-judgment interest pursuant to the *Judicature Act*.

CHRISTIE T.C.J.