

VERMONT SUPERIOR COURT
Chittenden Unit
175 Main Street
Burlington VT 05402
802-863-3467
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 26-CV-3711

Polli Construction, Plaintiff-Appellant v. Wesley Williams, Defendant-Appellee	On appeal from 26-SC-00532 OPINION AND ORDER
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DECISION ON APPEAL

Plaintiff Polli Construction (“Polli”) appeals the small claims court’s judgment against it and in favor of Defendant Wesley Williams on its claim for an unpaid invoice for construction work performed in the fall of 2023. The small claims court held that Polli could not recover because it did not comply with certain requirements under Vermont law for residential construction contracts estimated to exceed \$10,000. Polli is self-represented through Steven Polli and Williams represented himself. The Court has listened to the recording of the small claims hearing and reviewed the record of this case. For the reasons discussed below, the judgment of the small claims court is REVERSED.

Background

Based on the parties’ testimony and admitted exhibits, the small claims court made the following findings of fact by a preponderance of the evidence on the record at the hearing below. The parties entered into a “time and materials” contract through e-mails in August 2023 for Polli to engage in construction work on an emergency basis at Williams’ residence due to a leaky bathtub and the need for subfloor repairs. Exs. 1 & A. Williams agreed to Polli’s emergency work rate and was told by Polli’s estimator that the total cost would be “in the neighborhood of \$10,000.” In a separate email, a Polli employee informed Williams that Polli “works on a time and materials basis and do[es] not give estimates for the work.” Ex. A. However, based on the scope of work stated by Polli in the parties’ email exchange, the estimated price for the contract exceeded \$10,000 at the high end of the range. An invoice issued by Polli that was admitted into evidence shows that Polli began working on the project in August 2023 and completed the job in October, at a total cost of \$19,985.79. After deducting Williams’ payments, the remaining balance that Polli sought to recover was \$7,985.79. Ex. 2.

During the hearing, Williams stated that he did not dispute that Polli performed the work represented in the outstanding invoice, and he did not challenge any specific amount that was charged. Rather, his objection to making further payment under the contract was based on 26 V.S.A. § 5509, which provides requirements for contracts performed by residential contractors

registered with the Office of Professional Regulation. The small claims court held that the parties' contract was not enforceable because it failed to comply with § 5509(b)(2)(B), which addresses estimated start and completion dates, and § 5509(b)(2)(D), which addresses change order provisions. Therefore, the trial court held no further payment was due and entered judgment in favor of Defendant Williams.

On appeal, Polli argues that the small claims court misapplied the statute because the contract was "for emergency work" and the cost was not estimated to exceed \$10,000 when the contract was made. Thus, according to Polli, there was no violation of the residential contractor regulations.

Discussion

An appeal from a small claims judgment is heard and decided "based on the record made in the small claims court." 12 V.S.A. § 5538. The "appeal is limited to questions of law." V.R.S.C.P. 10(d). If the small claims court has "correctly applied the law," the Superior Court will "affirm [its] conclusions if they are reasonably supported by the findings." *Maciejko v. Lunenburg Fire Dist. No. 2*, 171 Vt. 542, 543, 758 A.2d 811, 813 (2000) (mem.). However, if "the trial court misapplied the law," the appellate court must "correct that misapplication on review." *Graham v. Town of Duxbury*, 173 Vt. 498, 499, 787 A.2d 1229, 1232 (2001) (citation omitted); *see also Maciejko*, 171 Vt. at 543, 758 A.2d at 813 (the court's review of the small claims court's legal conclusions is "non-deferential and plenary" (quotation omitted)).

Residential contractors are regulated and overseen by the Office of Professional Regulation ("OPR"), which lies within the Office of the Secretary of State. 3 V.S.A. § 122(51). The OPR oversees 54 different professions and boards, and it is in charge of processing applications, issuing licenses, collecting fees, and investigating alleged violations. *See id.* & § 123 (describing duties of Office). To be eligible for registration as a residential contractor, an applicant must satisfy certain prerequisites, as determined by the Director of the OPR. 26 V.S.A. §§ 5508, 5509(a). Once registered, a residential contractor must comply with the requirements set forth in 26 V.S.A. § 5509.

The purpose of the residential contractor regulations is to protect the public. *Id.* § 3101(a) (providing that, pursuant to state policy, regulations are "imposed upon a profession or occupation solely for the purpose of protecting the public"). Thus, the Director of the OPR is charged with informing the public about complaint procedures, and only the Director may "issue, revoke, suspend, condition, and reinstate registrations and certifications as ordered by an administrative law officer." *Id.* § 5505(a)(1), (3). In addition, the OPR "may discipline a registrant or certificant for unprofessional conduct," including the "failure to enter into a written contract when required by this chapter." *Id.* § 5510.

However, nothing in the statute affords a homeowner a private right to enforce the regulations or allows a contracting party to avoid the obligations of an otherwise valid contract based on the failure to comply with one or more of the regulations. *See id.* (addressing remedies for violations of regulations under the chapter); *see also Wool v. Office of Prof'l Regulation*, 2020 VT 44, ¶¶ 23-24, 212 Vt. 305 (although plaintiff filed a disciplinary complaint against

psychologist, he was not a party to the OPR’s disciplinary investigation and thus had no right of access to the records of such proceedings). This is especially the case where the regulations at issue are unrelated to any dispute between the parties and no prejudice has been demonstrated. As the Vermont Supreme Court has made clear, failure to comply with professional regulations will not void a contract unless “the violation somehow taints the agreement or makes its enforcement unfair”; in other words, “there must be a nexus between the asserted violation of the rules and the dispute between the parties, and there must be prejudice from the violation as well.” *Lang McLaughry Spera Real Estate, LLC v. Hinsdale*, 2011 VT 29, ¶¶ 22-23, 190 Vt. 1 (quotation omitted); *see also My Sister’s Place v. City of Burlington*, 139 Vt. 602, 613-14, 433 A.2d 275, 282 (1981) (rejecting defendant’s argument that plaintiff could not recover amounts paid under “labor contract with an unlicensed electrician,” noting that “defendant was not a party to the challenged contract, and a collateral illegality should not serve as a bar to a valid claim”); *Stewart v. Vt. Constr. Co.*, No. 24-CV-04268, 2026 WL 2161040, at *6 n.6 (Vt. Super. Ct. July 13, 2026) (Shafritz, J.) (homeowners could not assert unrelated and immaterial violations of residential contractor regulations as basis to void an otherwise valid and enforceable contract).

Here, the only issue Williams raised regarding the contract was that he “could not verify” the number of hours worked, and that the final bill was far greater than the estimate he was given. He did not argue that the project did not start or end on time or that the scope of work was improperly changed or expanded. Moreover, Williams did not offer evidence of any prejudice resulting from the claimed violations, nor can the Court discern any. Accordingly, the Court concludes that the small claims court erred in invalidating the parties’ contract based on the provisions of 26 V.S.A. § 5509.¹ Based on the evidence presented, Polli is entitled to recover the undisputed remaining balance owed under the parties’ contract of \$7,985.79.

Order

For the foregoing reasons, the judgment of the small claims court is REVERSED. This matter is remanded to the small claims court for entry of judgment in favor of Plaintiff in the amount of \$7,985.79, plus any filing fee and service costs, consistent with this opinion.

Electronically signed on October 5, 2026 at 12:01 PM pursuant to V.R.E.F. 9(d).



Megan J. Shafritz
Superior Court Judge

¹ The small claims court indicated that it relied on § 181 of the *Restatement (Second) of Contracts*. However, based on the Court’s analysis and the Vermont law cited above, the Court concludes that the trial court incorrectly determined that “the interest in the enforcement of the promise is clearly outweighed by the public policy behind” the relevant requirements of 26 V.S.A. § 5509. *See Restatement (Second) of Contracts* § 181 (Oct. 2024 update).