

HOME RENOVATIONS & REPAIRS

WHAT ARE THEY?

Home renovations are typically contracts between a home-owner and a contractor that govern the repair or renovation performed on or within a dwelling. These renovations and repairs can take a long time, be expensive, and messy. While consumers are protected under Ontario law, contractors themselves are mostly unregulated, allowing scams and unscrupulous activity to occur. According to the Ontario Ministry of Consumer Services, home renovation grievances were the second most common complaint received from 2004 - 2010. Therefore, investing the proper time into planning, organizing, and educating yourself before beginning a renovation project can make the process go much smoother.

WHAT DOES THE LAW SAY?

The Consumer Protection Act (CPA) of Ontario is the law that governs the general obligations for any consumer-related business. Although the CPA does not specifically name home renovations, this includes the rights of consumers in a home repair or renovation project as the CPA offers protection for any service agreement that costs more than \$50.

Home renovations or repairs are categorized under the CPA as **direct agreements** and **future performance** agreements:

- Direct agreements are when the agreement is made away from the contractor's office. This is typically because the contractor usually makes a visit to survey the household.
- Future performance agreements because the contract is to be completed in the future.

In a contract for home renovations or repair, the following **MUST** be included:

- The contract must be in writing.
- The names of and contact information for the parties must be included.
- When and where the work will be completed.
- The names and contact information of any subcontractors.
- A thorough description of the project with details of the work to be done and the materials to be used.
- The total cost and terms of payment.
- Who is responsible for clean up after the job is finished.
- Your cancellation rights.

The Construction Lien Act allows you to keep 10% of the total payment for 45 days after the work has been completed to ensure the quality of the handiwork.

A failure to meet any of these requirements has serious consequences. The Ministry of Consumer Services, which enforces the CPA, can charge an individual or company for failing to comply with the CPA. If convicted, fines can be imposed of up to \$250,000.

BEFORE SIGNING A CONTRACT (SOME FOOD FOR THOUGHT)

Home renovation or repair projects are often long term, requiring both a large financial and time commitments. Before signing an agreement with a contractor, pause and reflect on these following points:

- Understand your abilities and the time you can spend on a project. This may help in deciding whether to choose a larger construction company or a one-man contractor.
- Write a detailed list of the changes you want.
- Choose at least 3 potential contractors and obtain estimates from each
- Before signing a contract, be sure to check with your city or town hall whether you will need a building permit. It's your responsibility to get building permits and meet any legal requirements you'll need to renovate. If you want the contractor to get permits on your behalf, make sure it's spelled out in the contract and don't allow construction to begin until you've seen it.
- Ensure a warranty period is offered.

Once you have narrowed your choices, check the reputation of the contractor through the Better Business Bureau or the Ontario Ministry of Consumer Services to ensure that the contractor does not have past complaints or may go out of business a month later.

KNOW YOUR RIGHTS

Similar to most consumer contracts, there is a 10 day 'cooling' period with home renovation agreements **IF** it is signed in your home and is worth more than \$50. After signing the contract, you have 10 days to cancel for any reason without having to pay any penalties or cancellation fees.

However, if you solicited the contractor and the work was started within this 10-day period, you can cancel the contract, but you will be liable for reasonable compensation for work and materials that the contractor has provided.

Any agreement that does not meet the requirements of a contract for home renovations discussed above is considered to be void, and home owners have the right to cancel contracts that do not meet the provisions of the CPA at any time within one year of entering into the agreement.

Always ensure that an estimate is written into the contract. If the agreement includes an estimate, the final price **CANNOT** be greater than 10% above the estimated cost.

WHAT TO BE AWARE OF

As with any consumer-related industry, there are unscrupulous contractors and scams that may catch you unaware. Being aware of these practices may help protect your finances. Below are 3 main 'red flags' to watch out for:

- 1. The Door-to-Door Salesman:** A common sales ploy in the home repair business is the offer of a “good deal” by a door-to-door seller because “we just happen to be in the neighbourhood with all our material and equipment.” This is a high pressure tactic to reel in customers on the spot. Don’t fall for it.
- 2. The Disappearing Contract:** If a contractor tries to convince you to pay more up front for “materials”, it could be a scam. The contractor may just deposit the larger-than-normal down-payment and never return. There is no legal amount but the Ontario Ministry of Consumer Services suggest that down-payments should be around 10% of the total estimate.
- 3. The Paper-Free Deal:** Any contractor that offers you a promotion without an estimate, contract, professional licenses, or building permits, is a warning sign that the contractor may not be reliable. Cash deals may sound enticing, but a contract is the best protection a consumer can have in the event that something goes awry.

NEED TO FILE A COMPLAINT?

If you are not satisfied with a product, a contractor, or believe that a company has wronged you or broke the law, you may file a complaint. The first step is to communicate with the company directly. If that does not work, these agencies may help mediate concerns, contact the company, or direct you to others that can better address the issue.

1. Ontario Ministry of Consumer Services
 - a. www.sse.gov.on.ca/mcs/en/Pages/Complaint_Steps_to_File.aspx
 - b. The Ministry of Consumer Services provide information on consumer rights, applicable laws, and guides to writing a complaint letter or cancelling a contract. Online complaint forms are available on the website. The ministry has the power to order the company to comply with the law.
 - c. Sample cancellation letters are available on the website.
2. Commence legal action in Small Claims Court
 - a. If a contract is rightly cancelled and the business refuses to return pre-paid fees, legal action can be sought in the Canadian court system.

HELPFUL WEBSITES

1. Ontario Ministry for Consumer Protection: www.sse.gov.on.ca
2. Office of Consumer Affairs: www.ic.gc.ca/
3. Canada Mortgage and Housing Corporation: www.cmhc-schl.gc.ca/
4. Canadian Home Builders Association: www.chba.ca/
5. Canadian Consumer Handbook: www.consumerhandbook.ca
6. Ontario E-Laws Website for the Consumer Protection Act: www.e-laws.gov.on.ca
7. Your Legal Rights Ontario, a comprehensive database for preliminary legal issues: yourlegalrights.on.ca/