

**VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL
CIVIL DIVISION
DOMESTIC BUILDING LIST**

VCAT Reference: D357/2005

APPLICANT: Michael Chetauti
FIRST RESPONDENT: C & J Designer Homes
WHERE HELD: Melbourne
BEFORE: Senior Member D. Cremean
HEARING TYPE: Small Claim Hearing
DATE OF HEARING: 12 August 2005
DATE OF ORDER: 15 August 2005
[2005] VCAT 1691

ORDERS

1. Claim dismissed.

SENIOR MEMBER D. CREMEAN

APPEARANCES:

For the Applicant: Mr M Chetcuti, in person
Mr M Camilleri, son-in-law
For the Respondent: Mr S Noce, in person
Mr C Bolanis, in person

REASONS

1. The Applicant claims \$7,000.00 as cost of wall rectification due to faulty plumbing works by builder.
2. The Applicant must prove his case on the balance of probabilities.
3. I am not satisfied that the wall cracking on his premises is due to Respondent's workmanship. The Respondent not contracting party with Applicant. In itself this may not be decisive (see s9 of the *Domestic Building Contracts Act 1995* but a period of 4 or so years elapsed before Applicant became owner and anything could have happened in that time including the laying of pavers by persons unknown. The Respondent, in my view, correctly relies upon this. There is as statement in evidence by the vendor to the Applicant.
4. The Respondent, in any event, denies any wrongful works, in the first place. The Respondent builds perhaps as many as 50 houses a year.
5. Claim dismissed.

SENIOR MEMBER D. CREMEAN