

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

THE RYLAND GROUP, INC.,

Plaintiff,

v.

SANTOS CARPENTRY COMPANY,
INC., A&J BUILDERS APCO, FORMED
WALLS FOUNDATIONS BY SCHULTE AND
ROSSI, INC., DAVID T. SCHULTE MASONRY,
INC., HUHNS CARPENTRY, OMNIWAY
SERVICE CO. d/b/a KAPPLER
CONSTRUCTION, SAY SERVICE, INC.,
STATE WIDE PLUMBING, MK
BUILDERS, RABSPAN, INC., and
UNITED HVAC, INC.

Defendants.

C.A. No.: 00C-09-056 SCD

Submitted: March 8, 2004
Decided: March 26, 2004

O R D E R

This 26th day of March, 2004, upon consideration of Defendant, Rabspan, Inc.'s ("Rabspan"), motion for summary judgment as to all claims against them, and responses thereto, it appears:

- (1) Rabspan is a plumbing contractor that did work on some of the houses at Weldin Ridge.
- (2) All the work performed by Rabspan was completed during calendar year 1996.
- (3) On January 1, 1997, Ryland told Rabspan that it was terminating its contract effective January 1, 1997. On March 11, 1997, Ryland acknowledged in writing that it was aware of Rabspan's refusal to make repairs.

(4) Rabspan denies that it ever signed a contract to perform work at Welding Ridge.

(5) Ryland's claims against Rabspan are for negligence, breach of contract, breach of express and implied warranties, breach of implied covenant of good faith. The claims are based on the factual allegations that during the construction process it cut, notched and moved trusses, boards and strongbacks.

(6) All claims asserted by Ryland are subject to a three-year statute of limitations.¹

(7) The time of discovery rule has no application to the facts of this claim.²

(8) There is no liability which could give rise to a claim for either indemnification or contribution.

Wherefore, Rabspan's motion for summary judgment as to all claims, in contract and in tort, is GRANTED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary
xc: Counsel of Record

¹ DEL. CODE ANN. tit. 10, §8106 (2002).

² *The Ryland Group, Inc. v. Santos Carpentry Co., et al.*, Del. Super., C.A. No. 00C-09-056, Del Pesco, J. (Mar. 26, 2004) (Op.).