

<p>IN THE MATTER OF THE CLAIM</p> <p>OF SOLOMON AZOULAY¹,</p> <p>CLAIMANT</p> <p>AGAINST THE MARYLAND HOME</p> <p>IMPROVEMENT GUARANTY FUND</p> <p>FOR THE ALLEGED ACTS OR</p> <p>OMISSIONS OF EDWARD CHMAR,</p> <p>T/A HOMELIFE REMODLEING,</p> <p>RESPONDENT</p>	<p>* BEFORE GERALDINE A. KLAUBER,</p> <p>* AN ADMINISTRATIVE LAW JUDGE</p> <p>* OF THE MARYLAND OFFICE</p> <p>* OF ADMINISTRATIVE HEARINGS</p> <p>*</p> <p>*</p> <p>*</p> <p>* OAH No.: LABOR-HIC-02-19-34801</p> <p>* MHIC No.: 19 (90) 648</p>
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CORRECTED PROPOSED DECISION

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STATEMENT OF THE CASE

On May 3, 2019, Solomon Azoulay (Claimant) filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund), under the jurisdiction of the Department of Labor (Department),² for reimbursement of \$5,990.83 in actual losses allegedly suffered as a result of a home improvement contract with Edward Chmar, trading as Homelife Remodeling (Respondent). Md. Code Ann., Bus. Reg. §§ 8-401 through 8-411 (2015).³

¹ We received an email from Tenaea Thomas at the Department of Labor stating that the Appellant's name on the decision dated 12/09/20 was incorrect. The name has been changed to reflect this request.
² On July 1, 2019, the Maryland Department of Labor, Licensing, and Regulation became the Department of Labor.
³ Unless otherwise noted, all references hereinafter to the Business Regulation Article are to the 2015 Replacement Volume of the Maryland Annotated Code.

On October 21, 2019, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

I held a hearing on September 24, 2020 at the OAH in Hunt Valley, Maryland.⁴ Bus. Reg. § 8-407(e). Shara Hendler, Assistant Attorney General, Department, represented the Fund. The Claimant represented himself. After waiting twenty minutes for the Respondent or the Respondent's representative to appear, I proceeded with the hearing. Applicable law permits me to proceed with a hearing in a party's absence if that party fails to attend after receiving proper notice. Code of Maryland Regulations (COMAR) 28.02.01.23A. On August 11, 2020, notice of the hearing was mailed to the Respondent at the address of record by regular and certified mail, COMAR 09.08.03.03A(2). The domestic return receipt was signed by or on behalf of the Respondent and returned to the OAH on August 17, 2020. The notice that was sent by regular mail was not returned as undeliverable. The Respondent did not notify the OAH of any change of address. COMAR 28.02.01.03E. I determined that the Respondent had received proper notice, and I proceeded to hear the captioned matter.

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 09.01.03; and COMAR 28.02.01.

ISSUES

1. Did the Claimant sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?
2. If so, what is the amount of the compensable loss?

⁴ The hearing was previously scheduled for April 29, 2020 and August 11, 2020 but was rescheduled on both occasions in order to send notice to the discovery of additional mailing addresses for the Respondent.

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the Claimant's behalf:

- Clmt. Ex. 1 - Claimant's complaint to MHIC, November 5, 2018
- Clmt. Ex 2 - Contract between Homelife Remodeling and the Claimant, April 21, 2017
- Clmt. Ex 3, 3a, 3b - Photographs of interior walls (three)
- Clmt. Ex. 4 - Photographs of roof (2)
- Clmt. Ex. 5 - Urso Remodeling, Inc. Estimate, April 19, 2019
- Clmt. Ex. 6 - Complaint Form, November 5, 2018
- Clmt. Ex. 7 - Photographs of living room ceiling and wall damage (three)
- Clmt. Ex: 8 - Photographs of bedroom ceiling damage (three)

I admitted the following exhibits on the Fund's behalf:

- Fund Ex. 1 - Hearing Order, October 17, 2019
- Fund Ex. 2 - Notice of Hearing, December 16, 2019, May 4, 2020, and August 11, 2020
- Fund Ex. 3 - Home Improvement Claim Form, May 3, 2019
- Fund Ex. 4 - MHIC Licensing History of the Respondent

The Respondent failed to appear and therefore no exhibits were entered on behalf of the Respondent.

Testimony

The Claimant testified and did not present other witnesses.

For these reasons, I find that the Claimant failed to prove by a preponderance of the evidence that he suffered an actual loss and is eligible for compensation from the Fund.

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimant has not sustained an actual and compensable loss of \$5,990.83 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015).

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Home Improvement Commission:

ORDER that the Maryland Home Improvement Guaranty Fund deny the Claimant's claim; and

ORDER that the records and publications of the Maryland Home Improvement Commission reflect this decision.

March 18, 2021
Date Decision Mailed

CONFIDENTIAL

Geraldine A. Klauber
Administrative Law Judge

GAK/at
#191.113

PROPOSED ORDER

WHEREFORE, this 31st day of March, 2021, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.

Joseph Tunney

Joseph Tunney

Chairman

Panel B

*MARYLAND HOME IMPROVEMENT
COMMISSION*