

In the Court of Appeal of Alberta

**Citation: Great Northern Grain Terminals Ltd v Allmills Construction & Maintenance Inc,
2025 ABCA 46**

**Date: 20250212
Docket: 2303-0252AC
Registry: Edmonton**

2025 ABCA 46 (CanLII)

Between:

Great Northern Grain Terminals Ltd.

Appellant

- and -

Allmills Construction & Maintenance Inc.

Respondent

The Court:

**The Honourable Justice Frans Slatter
The Honourable Justice Jolaine Antonio
The Honourable Justice April Grosse**

Memorandum of Judgment Delivered from the Bench

Appeal from the Order by
The Honourable Justice C.A. Rickards
Dated the 17th day of January, 2024
Filed on the 18th day of January, 2024
(Docket: 1812-00045)

**Memorandum of Judgment
Delivered from the Bench**

Antonio, J.A. (for the Court):

[1] The appellant, Great Northern Grain Terminals Ltd. (Great Northern), engaged the respondent, Allmills Construction & Maintenance Inc. (Allmills), to upgrade a grain handling facility. After limited discussion, Allmills provided Great Northern with an agreement entitled “Quote”. Among other things, it stated a price and provided that any changes to the scope of the work must be done via written change orders.

[2] Allmills invoiced Great Northern for the amount stated on the agreement, and Great Northern paid. Allmills issued additional invoices, though no written change orders had been exchanged. Great Northern declined to pay some of the additional invoices, saying the work reflected in them was within the scope of the original agreement or had not been approved by Great Northern. Allmills filed a claim against Great Northern for payment of these invoices.

[3] Great Northern filed a counterclaim alleging deficiencies in the work and claiming damages for the repairs and for lost profits.

[4] The trial judge awarded some damages to Allmills and dismissed Great Northern’s counterclaim.

[5] The trial judge did not resolve disputed issues that were foundational to the analysis of the claim, including whether the agreement was a quote or an estimate; in either case whether the work described in the disputed invoices was within the original scope of the work or “extra”; and whether it was authorized. He stated the correct test for when work “extra” to a quote can be invoiced in the absence of formal change orders. He reviewed evidence but did not make findings of fact, such that it cannot be said Allmills had satisfied the test. He then considered a test relevant to estimates and used it to award damages to Allmills.

[6] The trial judge’s analysis of Great Northern’s counterclaim was also tainted by the absence of any factual conclusion as to the scope of the agreed work. His further analysis failed to engage with relevant factual issues and relied in part on theories that were inconsistent with the uncontroverted evidence, such as the possibility that deficiencies in design and incomplete work were caused by workers on a different project.

[7] These errors of law and the failure to make findings on essential legal and factual issues mandate a new trial. The appeal is allowed. A new trial is ordered on both the claim and counterclaim, though the parties remain free to pursue alternative dispute resolution.

Appeal heard on February 4, 2025

Memorandum filed at Edmonton, Alberta
this 12th day of February, 2025

Antonio J.A.

Appearances:

A. Poburan
for the Appellant

J.D. Iwanicki
for the Respondent