

IN THE SUPREME COURT OF NOVA SCOTIA

Citation: Force Construction Ltd. v. Queen Elizabeth II Health Sciences Centre, 2008 NSSC 405

Date: 20081212

Docket: SH 174143

Registry: Halifax

Between:

Force Construction Limited, a body corporate, and
Bell Electric Incorporated, a body corporate

Plaintiffs

v.

Queen Elizabeth II Health Sciences Centre, a body
corporate

Defendant

LIBRARY HEADING

Judge: The Honourable Justice C. Richard Coughlan

Heard: December 5, 2008, in Halifax, Nova Scotia

Decision: December 12, 2008 (Orally) (Re Costs)

**Written Release
of Decision:** March 12, 2009

Subject: Sales and Service Tax - Harmonized Sales Tax - Whether
HST payable as damages for breach of Contract A in the
tendering process.

Practice - Calculation of Prejudgment Interest

Practice - Determination of Costs

Summary: Force Construction Limited was awarded damages against Queen Elizabeth II Health Sciences Centre (Hospital) for breach of Contract A to treat Force fairly in the tendering process. The claim of Bell Electric Incorporated, the electrical subcontractor named in the Force Construction tender, was dismissed.

- Issues:**
1. Should HST be added to the amount awarded to Force Construction for breach of Contract A in the tendering process?
 2. For what period should prejudgment interest be awarded?
 3. What award of costs should be awarded to Force Construction and the Hospital?

Result: Contract A is not an agreement for the making of a supply of property or a service, but rather a contract giving rise to certain obligations as to how the parties are to conduct themselves in the tendering process. Contract A, not being a supply of property or a service, HST is not payable as a result of the breach of Contract A.

Under the circumstances of the case, prejudgment interest shall be paid for a period of five years four months to December 12, 2008, and from that date to judgment.

Costs were awarded to Force Construction and the Hospital.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***