

SUPREME COURT OF NOVA SCOTIA

Citation: APM Construction Services Inc. v. Caribou Island Electric Ltd.,
2012 NSSC 277

Date: 20120719

Docket: Hfx. No. 389863

Registry: Halifax

Between:

APM Construction Services Inc., Travelers Guarantee Company of Canada
Applicants

v.

Caribou Island Electric Limited, 3104607 Nova Scotia Limited c.o.b. Advanced
Cabling Systems, Canada Revenue Agency, Her Majesty The Queen in Right of
The Province of Nova Scotia as represented by the Minister of Transportation and
Infrastructure Renewal

Respondents

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Judge: The Honourable Justice Peter P. Rosinski

Heard: July 3, 2012 in Halifax, Nova Scotia

Subject: *Builders' Lien Act* and *Federal Income Tax Act* -
conflicting claims to money owed - *Civil Procedure Rule*
76 - interpleader.

Summary: General contractor APM entered into a bond with the
Provincial government and Travelers Guarantee as
surety. APM contracted Caribou, which subcontracted to
ACS. APM was served by the Canada Revenue Agency
with a enhanced requirement to pay pursuant to s.
224(1.2) of the *Federal Income Tax Act* regarding taxes
owing by Caribou. APM Had not paid Caribou for work
done on the project. Caribou had not paid ACS for work
done on the project. APM made application to the Court
for interpleader regarding the conflicting claims of ACS

and CRA to the monies in APM's possession. APM also requested that the Court determine the issue of whether ACS could claim under the bond for the monies unpaid by Caribou.

Issue: Should the Court grant an interpleader order? If so, should the Court adjourn the determination of resolving the conflicting claims to the monies in APM's possession? Should the Court make a declaration respecting the liability of the surety under the bond to ACS?

Result: Motion denied in part; the Court found that CRA had super priority to the monies APM owed to Caribou, to the extent that they were no greater than the tax liability of Caribou to CRA. There was no need for an interpleader order as the monies in possession of APM were payable to CRA by operation of law. ACS was a proper "claimant" under the bond and should be paid by the surety those amounts it was owed by Caribou.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
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