

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Cite as: Money Pros v. Nodine, 2004 NSSM 39

BETWEEN:

Name	The Money Pros	Claimant
Name	James Nodine	Defendant

DECISION

Revised Decision: The text of the original decision has been revised to remove personal identifying information of the parties on August 22, 2007.

Appearances:

Rick LeBlanc, agent, sworn, on behalf of the Claimant;
No one appearing on behalf of the Defendant James Nodine, although duly served.

- [1] This is a claim on what is said to be loan.
- [2] The “loan” document is made in the name of “The Money Pros” and James Nodine.
- [3] The document is stated as follows: “\$300 for the value received, the undersigned promises to pay The Money Pros (payee) or order on or before 2003-08-07 the sum of \$390.”
- [4] In addition, there was a \$50 charge on all NSF cheques and a \$20 late charge.
- [5] Finally, the document contained a preauthorized payment scheme, wherein James Nodine agreed as follows: “I/We hereby authorize 1425661 Ontario Ltd., o/a The Money Pros to issue preauthorized debits (as defined in Rule H4 of the Rules of the Canadian Payment Association). The (‘PAD’) drawn on account for ‘services rendered plus any additional charges that may come due.’”

- [6] Finally, the bottom of the document contains the following: "Fifteen day loan – (\$28.50 every \$100 borrowed administration fees and 1.5% interest). The APR for this agreement is 36.5%."
- [7] Entered into evidence was a cheque drawn on the account of "Jim or Roslyn Nodine" dated August 7, 2003 in the amount of \$390.
- [8] Mr. LeBlanc stated that a \$25 payment had been made on account on January 1, 2003 but that there had been no other payments.
- [9] He was accordingly claiming a total of \$435, composed of \$390 pursuant to the loan agreement, an NSF cheque fee of \$50, late fees of \$20; for a total of \$460, minus the payment of \$25.
- [10] Mr. LeBlanc advised that he was not seeking interest because the Province had requested changes in the loan documents to more clearly specify the interest being charged.
- [11] Mr. LeBlanc admitted that the \$90 was not an "administration fee" as he originally stated, but was rather interest charged on the loan of \$300.
- [12] Mr. LeBlanc also seeks costs in the following amounts:
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|----|------------------------|------------------|
| a. | agent services | \$100; |
| b. | process server | 60; |
| c. | notary services (oath) | 15; |
| d. | for a total of | \$175, plus HST. |
- [13] Given Mr. LeBlanc's comments about the changes necessitated by the loan agreement and given my own review of the document, I am satisfied that:
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| a. | there was a debt of \$300; |
| b. | \$25 had been paid in respect of that debt; |
| c. | the extra NSF charges, interest, administration fees and the like are unconscionable. |

[14] I am also not satisfied that the NSF charge is appropriate in the circumstances of this case, because the cheque that was attached is for \$390, but the bank document indicates that the NSF charge is in respect of an attempt to deduct \$460 from Mr. Nodine's account and it is not clear to me that the cheque for \$390 would not have cleared had it been passed.

[15] Accordingly, I am only prepared to allow the following:

- a. \$275 in respect of the debt;
- b. filing fees of \$75; and
- c. service charges of \$60.

Dated at Halifax, Nova Scotia this
3rd day of May 2004

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ADJUDICATOR
W. Augustus Richardson

Original	Court File
Copy	Claimant(s)
Copy	Defendant(s)