

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Cite as: Blackburn English v. Simmonds, 2001 NSSM 5

BETWEEN:

Name BLACKBURN ENGLISH Claimant

Name RUDY JASON SIMMONDS Defendant

Revised Decision: The text of the original decision has been revised to remove addresses and phone numbers for the parties on August 17, 2006. This decision replaces the previously distributed decision

DECISION

This application for a quick judgment came on before me on August 22, 2001.

Mr. Joseph Cooper, Q.C., filed an affidavit and proof of the application, setting out that the claim had been served on the defendant; that no defence had been entered; and that 10 days had expired since the date of service.

The hearing of the claim is set for September 4, 2001, but notwithstanding the hearing date (which had been fixed by the court), the claimant moved for quick judgment, as he was entitled to do under the *Small Claims Court Act*.

The claim is for an unpaid account for legal services rendered, and to have the outstanding account taxed.

Attached to the claim is an accounting, which shows that the client did pay a total in excess of \$6,200.00, leaving an outstanding balance of almost \$6,000.00. Unfortunately, there is no evidence as to what services the solicitor was retained to do. The itemized accounts are attached, but no dockets as to the amount of time incurred are attached. Nor can I determine from the materials filed whether the solicitor was successful; and whether the services were appropriate, given the nature of the retainer (whatever it was).

As a rule, I am of the view that it is not appropriate to make an application for a quick judgment in a matter that requires both an assessment (or taxation) of an account, as well as an Order in respect of a judgment on the account, at least in a case where the supporting affidavit material does not indicate such things as:

- (a) what the nature and scope of the retainer was;
- (b) whether there is an agreement concerning the solicitor's fees;
- (c) what the solicitor was retained to do, and his or her degree of success in the matter; and
- (d) the actual time dockets in respect of the services rendered.

Without such detail it is impossible for me to tax the account; and hence it is impossible for me to

grant judgment with respect to the amount claimed.

I accordingly dismiss the claimant's application for quick judgment, and direct that it be heard in normal course on the scheduled date of September 4, 2001, at 7:00 p.m. in Halifax.

Dated at Halifax, Nova Scotia, this _____)
day of August, 2001.)

W. Augustus Richardson
ADJUDICATOR

Original
Copy
Copy

Court File
Claimant(s)
Defendant(s)