

IN THE SMALL CLAIMS COURT OF NOVA SCOTIA

Cite as: Giamac Inc. v. Stuckless, 2007 NSSM 74

Between:

GIAMAC INC. / AUTORAIL FORWARDERS
CLAIMANT

- and -

EVERETT R. STUCKLESS
DEFENDANT

DECISION AND ORDER

Adjudicator: David T.R. Parker

Heard: January 11, 2007

Decision: January 22, 2007

Counsel: Gerry Giovannetti represented the Claimant

Everett R. Stuckless represented the Defendant

The claim, although pleaded out extensively, is rather straightforward. The Claimant states he subleased his rental premises and the subleasee was interfered with to such an extent by the Defendant that the subleasee was required to vacate the premises resulting in a loss to the Claimant.

The Defendant's pleadings were not clear; however, on the evening of the hearing

the Defendant advised the Court that his defense was the Claimant's claim is "hogwash".

Ronald Armstrong was the first witness to provide testimony to the Court. He said he was looking for space to rent for six months on a trial basis and after that he would come to a decision on whether to stay or not. Mr. Armstrong rented from the Claimant and stayed three months.

Norman Hanley owned the building in which both the Claimant and Defendant rented. The Claimant was renting space in the building prior to the Defendant moving into the space. Mr. Hanley had a written lease with the Defendant. There was no written lease with the Claimant and one only came into existence sometime just prior to this hearing.

Mr. Hanley and Mr. Giovannetti, owner of the Claimant Company, were involved in a dispute as to whether there was a lease and they were apparently involved in court proceedings over this matter. Certainly they were in disagreement as to whether there was a lease or not. Mr. Hanley rented out part of the premises to the Defendant who was going to buy the building from Mr. Hanley. The deal apparently fell through.

Mr. Giovannetti felt he had the right to sublease his property. Certainly there was no written agreement with the landlord, Mr. Hanley that he could. Even if I accept the fact that he could sublease to Mr. Armstrong, Mr. Armstrong was unable to provide any direct evidence that he was interfered with by the Defendant. He did say his secretary wrote the termination letter regarding renting the office space but he had no personal knowledge of the complaints listed in the letter. Mr. Armstrong was very forthright in his evidence. He said that there were parking issues that kept arising and he decided to leave because there was "a whole combination of things. I was never there for any of these things." He said water was turned off one morning and that was a big issue, but he did not know why it was turned off. He said, "there was obviously a lot going on with you guys {meaning Giovannetti and Stuckless] and parking was one of them." This was in fact the case as the Claimant was in Supreme Court with applications for injunctions against the Defendant.

Mr. Armstrong said that one of the things that bothered him was when the police "showed up asking questions on the pair of you guys. That was upsetting as I have

clients."

Mr. Stuckless admitted that he was in a dispute over parking with Mr. Giovannetti. He said the water was turned off when there was a problem with the hot water in the building. At that time he considered himself property manager as Mr. Hanley was selling the building to him and told him to take over caring for the building. Mr. Hanley told Mr. Stuckless to go over to Mr. Giovannetti's section and collect rent cheques. He entered Mr. Armstrong's "subleased" premises and demanded cheques but did not realize it was not Mr. Giovannetti's employee. He also admitted telling an employee; it turned out to be Mr. Armstrong's, not to smoke at the front of the building.

The Claimant cannot succeed in this case for the following reasons:

- (1) He has not proven that he had the authority to sublease the premises.
- (2) Mr. Armstrong had made no commitment to rent for a specific period of time and there was not a signed lease commitment between the Defendant and Armstrong.
- (3) The dispute was between Giovannetti and Stuckless and any disruption to Armstrong was a result of that dispute and not Stuckless intending to cause Armstrong to leave the premises.

IT IS THEREFORE ORDERED that the claim against the Defendant be dismissed with no order as to costs.

Dated at Halifax, this 22nd day of January, A.D., 2007.

David T.R. Parker
Adjudicator of the Small Claims
Court of Nova Scotia