

SCCH 430086

**SMALL CLAIMS COURT OF NOVA SCOTIA**

Cite as: Hynes v. Smardon, 2014 NSSM 53

BETWEEN

**Christopher Hynes/Hynes' Compassionate Cannabis CLAIMANT**

**-and-**

**Willard George Smardon**

**DEFENDANT**

**Adjudicator: David TR Parker QC**

**Heard: October 9, 2014**

**Decision: November 4, 2014**

Counsel: Ian S.Joyce represented the Claimant  
the Defendant was self-represented

*Breach of contract in a joint venture involving the production of marijuana.*

**ORDER**

## **The Claim and the Defence:**

1. The parties appeared at this hearing on October 9, 2014 and were prepared to proceed. Before proceeding the court asked both parties if there were any amendments that they wished to make to their pleadings. There being no request to add or delete any matters, the court then proceeded to advise the parties of the procedure. The parties were asked if there were any matters they wish to bring to the court's attention before they proceeded. The Defendant said he did not know why he was here and he had no money.
2. The claimant filed his claim in the Small Claims Court on August 6, 2014. He stated in his pleadings that he had an operation or business known as Hynes' Compassionate Cannabis.
3. He stated that he and the defendant were authorized and licensed users and growers of medicinal marijuana pursuant to the provisions of the *Marijuana Medical Access Regulations*.
4. He stated that the defendant owns property 21 James Vaughn Road, Walton, Hants County and that the defendant wanted to renovate his garage and converted it to a site suitable for growing medical marijuana.

5. The claimant stated that he entered into an agreement whereby he would advance monies, material/equipment and labor to the defendant to allow for the renovation of the defendant's garage. The defendant then would grow medical marijuana for a period of 2 years.
6. The claimant said he paid in excess of \$25,000.00 for materials and equipment.
7. The claimant stated that after proximally 5 months they both determined that the arrangement would be unsustainable on a going forward basis. He said that the defendant told the claimant he wished to continue growing marijuana at the property on his own and that the defendant agreed to pay the claimant for the value of monies and material and equipment and labor put into the property by the claimant.
8. The claimant stated that this did not occur and that the defendant refused to pay the claimant the value of the monies, material/equipment and labor put into the defendant's property by the claimant.
9. The claim is for breach of contract or in the alternative unjust enrichment.
10. The defendant did not file a defence however in court he provided documentary evidence of email correspondence

between the parties which in essence stated that the claimant got his money when he took “4 crops of weed” out of the defendant’s property.

**Testimony of the Claimant and Defendant:**

11. The claimant stated that he worked for 8 years with the Department of Transportation and then started a business of growing marijuana, for his own use. He knew the defendant for 15 to 17 years and also knew that the defendant was a licensed user of marijuana as well as a licensed producer.
12. The claimant worked out an agreement with the defendant to consolidate their operations on the defendant’s property whereby the defendant would make his garage available and the claimant would pay for and make improvements to allow for the operation of their business venture.
13. Unfortunately everything did not work out as planned and the claimant said it was just simply too big for the defendant to “do both rooms.”
14. The Claimant offered to take the equipment back and while he did take some, the defendant told the claimant he would reimburse him for what equipment was left at the defendant’s property.

15. The claimant provided invoices for equipment and materials he provided to the defendant's property for which he was not reimbursed and which exceeded the \$25,000.00 jurisdictional limit of the Small Claims Court.
16. The claimant advised the court that he was prepared to reduce the amount that the defendant owed him to \$25,000.00 in order to fit within the jurisdiction of the court.
17. The defendant in his testimony said he was working for the claimant and he would provide the labor. He said that he had to sell the equipment to pay for the electric bill.
18. The defendant said he did not know why he was here he had no money and no means of paying for anything. There was some discussion about guns and that having caused the breakup of the business relationship. The defendant also said his former partner left him and went with the claimant. These seem to be side issues however no doubt caused disharmony in their relationship.
19. The defendant also said that the claimant took several hundred plants or so from his property when he left and that he did not feel he owed him any money.

### **Facts and Analysis:**

20. These parties were both licensed marijuana growers for municipal purposes.
21. They entered into an agreement whereby the defendant's premises would be used for the production of marijuana and the claimant would provide sufficient monies to support the "grow-op".
22. The defendant was to supply the labor however after a few months the claimant realized the defendant could not sustain the operation. This was never denied by the defendant.
23. The claimant purchased and provided over \$25,000.00 to the operation before the business arrangement fell apart and the parties were unable to work together.
24. The claimant was to remove his equipment from the premises but this did not occur as the defendant had some outstanding bills and the defendant sold equipment to pay those bills.
25. The defendant claims that the claimant took sufficient "weed" from the defendant's premises to compensate him for the money he had spent on the equipment in their joint venture.

26. The defendant was unable to support a substantive defence, while the claimant, brought in supporting documentation to show the money that he spent on equipment for the “grow op” at the defendant’s property.

27. There is sufficient documentary and testimony evidence to support the claimant’s claim and I would therefore award him the amount of \$25,000.00 plus costs. There is no evidence to confirm the claimant took marijuana from the defendant’s property or if he did in fact do it what the value of that marijuana was. The defendant’s allegation has no foundational support.

**Is Therefore Ordered That** the defendant pay the claimant the following sums:

\$25,000.00
\$ 193.55 court costs
<u>\$ 181.13 service costs</u>
<b>\$25,374.68 total</b>

Dated at Halifax this 4<sup>th</sup> day of November 2014