

CITATION: *Organ v Panter* [2005] NTMC 061

PARTIES: BERNARD JAMES ORGAN  
v  
PETER LAURENCE PANTER

TITLE OF COURT: Local Court

JURISDICTION: Small Claims

FILE NO(s): 20427476

DELIVERED ON: 15 September 2005

DELIVERED AT: Darwin – to be delivered to the parties at  
Nhulunbuy by the Clerk of Courts

HEARING DATE(s): 6 September 2005

JUDGMENT OF: Jenny Blokland SM

**CATCHWORDS:**

SMALL CLAIM – ARREARS FOR VECHILE REPAIRS

**REPRESENTATION:**

*Counsel:*

Plaintiff: Self

Defendant: Self

Judgment category classification: C

Judgment ID number: [2005] NTMC 061

Number of paragraphs: 10

IN THE LOCAL COURT  
AT DARWIN IN THE NORTHERN  
TERRITORY OF AUSTRALIA

No. 20427476

BETWEEN:

**BERNARD JAMES ORGAN**  
Plaintiff

AND:

**PETER LAURENCE PANTER**  
Defendant

REASONS FOR JUDGMENT

(Delivered 14 September 2005)

Mr BLOKLAND SM:

**Introduction**

1. The plaintiff, a long term mechanic based in Nhulunbuy, filed a Statement of Claim against the defendant, a long term customer of the plaintiffs in the sum of \$2,755.30. The sum claimed is said to represent the cost of the repairs to the defendants' taxi that had not been paid for. The defendant disputed the assertion that he had not paid for the work, stating in his defence that he had paid two lots of \$1,000 cash to the plaintiff before the work was done. That \$1,000 cash was paid on 1 March 2004 and another on 16 June 2004 and he argued that should only leave \$755.30 owing.

**Evidence Heard at the Inquiry**

2. The plaintiff himself gave evidence. He carries on his own business. He told the court the defendant had been a customer for a few years. He said that in the "early days" the defendant had paid regularly on time but that he "got behind" in payments. He said he did ask for some payments "up front"

because at the 1<sup>st</sup> March 2004, the defendant was \$1,756 in arrears. He agrees there was one cash payment of \$1,000 in the records of 1/3/04 but he (the plaintiff) was further engaged at that time to conduct a service and do some front end work on the defendant's vehicle, in particular referring to invoice 3119 of 1/04/04 and invoice 3212 of 21/05/05 being for sums of \$761.15 and \$998.73 respectively. He denied there was any payment made by the defendant on 16 June 2004. He said he does not actually do the books for his business. He told the court he denied receiving a payment personally in cash from the defendant near his shed (as had been described by the defendant). He told the court he never takes money from customers that is not put through the books.

3. The plaintiff's book keeper, Ms Marlene Organ, (also the plaintiff's wife) produced all relevant invoices; a handwritten summary of those invoices that she said she also gave to the defendant (Ex P1) as she said he did not understand her computer records. She also produced the Job Number Log Book (Ex P2). These are detailed and clear records that appear to correlate with the invoices and calculated amounts due and owing.
4. Ms Organ told the court the defendant made regular payments up until 21 December 2000 and then he went into arrears. He paid various amounts but by invoice 712 (12/12/02) he was behind. My review of the records indicate that by 23/3/03 the defendant owed \$2,337.47 as a result of six unpaid invoices. On 30 May 2003 he paid \$480 bringing it down to \$1,857.47; however over the course of 2003 and into 2004 he didn't ever clear the bulk of the moneys owed for previous work. Ms Organ agrees the defendant paid \$480 on 30/05/03; \$600 on 31/12/03; \$1,000 on 1/2/04 and \$1,000 on 1/3/04, but with further unpaid work, he still owed \$2,755.30. She disagrees there was ever any payment on 16 June 2004 as contended by the defendant.
5. The defendant, Mr Panter could produce no receipts or original records. His main contention was that he gave Mr Organ \$1,000 before the latest work

was done. He said he agreed he was in arrears for \$700 “odd” dollars. He told me his records were at his accountants. I agreed to stand the matter down for an afternoon to allow him to obtain any further records.

6. Mr Panter said when court resumed that he was unable to obtain the records. He had produced “DI”, a summary of his accountant’s records, stating “I have perused the books of Peter Panter; TFN 565 504 584 and have found entries of payments to Arnhemland Diesel.....”. That document lists a number of dates and payments including \$1,000 for 16 June 2004; \$1,000 for 16 March 2004 – these and other “records” do not correlate at all with the original business records of the plaintiff. The plaintiff has some payments recorded as received from the defendant that do not appear in the defendants accountant’s summary.
7. Further, Mr Panter told the court that he had diary entries of the payments that he says correlate to his accountant’s summary. The Court has his 2002 diary, and there is no record of any payment, for example 23 February 2002; 29 May 2002; 12 June 2002 (as just examples), that correlate with DI. There are not the notations in his diary as asserted.
8. Further, the defendant said his tax records would correlate with the accounting records. The plaintiff tendered a spread sheet of those records (Ex P3). Going through that spread sheet, I have been unable to find anything in 2001 and 2002 that correlates with the accountant’s summary. I have been unable to find any record consistent with the defendant’ case.

### **Conclusion**

9. Notwithstanding Ms Organ, the book keeper is married to the plaintiff, I do not at all think her evidence was tailored to favour the plaintiff. She was open, honest and forthright. Through her the plaintiff tendered detailed business records that correlated each job number with an invoice and

payment. Mr Panter was vague and his records contradicted each other. On the balance of probabilities I find for the plaintiff.

10. I order judgement for the plaintiff in the sum of \$2,755.30. I direct, as agreed by the parties at hearing that the Clerk of Courts Nhulunbuy give a copy of these reasons to the parties and note the date on which each party obtained the reasons on the court file.

Dated this 15th day of September 2005.

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**Jenny Blokland**  
STIPENDIARY MAGISTRATE