

CITATION: *Organ v Stevenson* [2005] NTMC 062

PARTIES: BERNARD JAMES ORGAN

v

BEAU STEVENSON

TITLE OF COURT: Local Court

JURISDICTION: Small Claims

FILE NO(s): 20427475

DELIVERED ON: 15 September 2005

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

HEARING DATE(s): 6 September 2005

JUDGMENT OF: Jenny Blokland SM

**CATCHWORDS:**

SMALL CLAIM – DISPUTE OVER COST OF REPAIRS TO MOTOR VEHICLES –  
ALLEGATION OF DAMAGE TO VEHICLE – LOSS OF EARNINGS

**REPRESENTATION:**

*Counsel:*

Plaintiff: Self  
Defendant: Self

Judgment category classification: C  
Judgment ID number: [2005] NTMC 062  
Number of paragraphs: 11

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

No. 20427475

BETWEEN:

**BERNARD ORGAN**  
Plaintiff

AND:

**BEAU STEVENSON**  
Defendant

REASONS FOR JUDGMENT

(Delivered 15 September 2005)

Ms BLOKLAND SM:

**Introduction**

1. This is a claim by the plaintiff for the sum of \$3208.70 being for moneys the plaintiff says the defendant owes him in relation to non-payment for repairs to the defendant's motor vehicle.
2. The defendant has counterclaimed for the same sum, claiming "Loss of earnings, air-conditioning work unacceptable; motor life could be shortened because of the loose radiator hoses; evaporator blocked because of 3.5 weeks running with windows down because of air-conditioning."

**The Evidence at the Inquiry**

3. I will not need to go through all of the evidence at the inquiry as the issues did narrow somewhat. This dispute began after the plaintiff, who has been a mechanic for thirty years repaired the defendant's car. The claim before the

court involves monies the plaintiff says are owing on invoice 3090 and invoice 3154.

4. One of the jobs on invoice 3090 involved a problem with the defendant's vehicle's compressor; the plaintiff said that when it was opened, it was badly contaminated with metal and needed to be flushed out. The plaintiff said he did have a problem with his gauge in the charge station that was used to complete this work and he admits there was initially a problem with his own equipment that was rectified.
5. The plaintiff said that adjustments were made to the invoice accordingly so that effectively the item of 18 March 2004 on invoice 3090 was not charged for.
6. The defendant Mr Stevenson said initially in evidence that he would not pay the amounts owing on the invoices as a Mr Greg Wicks from Mansfield Colair had advised him the reason the compressor would not last was that it had been overfilled with oil. To that extent I have had regard to the document filed by the defendant and signed by Mr Greg Wicks indicating "the problem was caused by excess oil in the system approximately 200mm of oil was drained from the system...". However, the plaintiff has filed a document from the manufacturer indicating "VT Comm A/C system only uses what oil is in compressor. New VT compressors come with 220 mls of Pag oil". Further, in relation to the part of Mr Wick's letter that indicated there would have been twice the level of recommended oil in the system, the plaintiff says it would not run at all if that were the case as there would be overcharging.
7. The defendant contends however that he was advised by Mansfield to obtain a new compressor. The defendant also alleged during the hearing that on 19/3/04 when a new regulator was fitted, the plaintiff or an employee scratched his window tinting; that he didn't know what the charge was about on 23/02/04 of "dift weeping"; he said that the plaintiff's mechanic broke

the retaining pin for the taxi's vacancy light. He said he couldn't use the fan inside the vehicle; this led to a decrease in income because of the problems associated with dust in Nhulunbuy and needing to drive around with the windows down. He said his motor was overheating; his radiator hoses were loose. He said he went in to see the plaintiff without a problem and then experienced all of these problems.

8. In cross examination he agreed he was shown how "black" the system was. The plaintiff said he had no reason to touch the radiator and hence disagreed he'd left the hoses loose.
9. When queried on why his counter claim was precisely the same as the plaintiff's claim, the defendant said he had not wanted to make money out of it. He could produce no records concerning his loss of earnings. At the end of the hearing, after being asked why he went back to the plaintiff on 30 March 2004 if he had problems, he indicated he did not know what had happened to the vehicle at that stage. He then told the court he would be prepared to pay for the work covered in invoice 3154 (\$476.55) relating to work on 30.03.04.

### **Conclusions**

10. There is no dispute of any substance that the plaintiff did not do the work as requested. It is clear to me on the balance of probabilities the plaintiff needed to work on the compressor that was badly contaminated. The plaintiff does acknowledge a problem with his equipment but has completed the work in any event. Invoice 3154, as I indicated, is not longer in dispute. I thought the plaintiff was precise, cautious but prepared to make appropriate concessions and I accept his evidence. On the balance of probabilities the plaintiff's claim is made out. In terms of the defence in the nature of a counter-claim, it is one thing to show there was a problem in the plaintiff's work station, it is another to prove there has been damage as a result. Given the conflicting evidence about the appropriate levels of oil in

the system, the defendant has failed to persuade me that anything the plaintiff did to his vehicle resulted in damage. Indeed the balance favours the plaintiff. There is also evidence about the poor state of the system prior to the plaintiff's repairs. The defendant's counter-claim lacks credibility given he has effectively pulled a sum out of the air to match the plaintiff's claim; he has conceded during the hearing that he should in fact pay invoice 3090; he had no records and gave no cogent evidence about his loss of wages. On the counter-claim he must persuade me on the balance of probabilities. He has not.

### **Orders**

11. Judgement for the plaintiff in the sum of \$3,208.70.

I dismiss the defence and counter-claim. I direct the Clerk of Courts deliver these reasons to each party as agreed at the hearing and note the date that the parties received those reasons on the court file.

Dated this 15th day of September 2005.

---

**Jenny Blokland**  
STIPENDIARY MAGISTRATE