

2005

Probate File No. 52770

IN THE COURT OF PROBATE
IN THE ESTATE OF REGINALD F. WELSH
Cite as: Halifax Tire Shack (2002) Ltd. v. Welsh Estate , 2005 NSPB 2

BETWEEN:

HALIFAX TIRE SHACK (2002) LIMITED,

APPLICANT

- and -

ESTATE OF REGINALD F. WELSH

RESPONDENT

DECISION

Heard: at Halifax, January 27, 2005

Before: Sharron M. Atton, Registrar of Probate

Decision: February 14th, 2005

Counsel: Janet Stevenson, Counsel for the Applicant

William L. MacInnes, Counsel for the Respondent

On January 27, 2005, a hearing was held respecting a claim filed by Halifax Tire Shack

(2002) Limited against the Estate of Reginald Welsh for the sum of \$7,302.33. The grounds for the claim were for unpaid invoices from 1998 to present for maintenance work done to vehicles owned and operated by R.F. Welsh Plumbing & Heating Ltd. Attached to the claim were statements which included all invoices and payments to the date of the claim.

The Estate filed a Notice of Contested Claim contesting all of the claim filed by Halifax Tire Shack (2002) Limited.

Prior to the hearing of this claim in Probate Court, the matter was heard in Small Claims Court on March 11, 2003, the defendant being R.F. Welsh Plumbing and Heating Limited. A decision was rendered by the Adjudicator dismissing the claim without costs to either party.

During the hearing before this Court, the claimant reduced the amount claimed to \$5,719.21 and stated that the amount owing was for the year 1998 only.

Norman Brown, the President of Halifax Tire Shack (2002) Limited gave evidence that he began a business relationship with the deceased, Reginald Welsh, in the 1970s. Mr. Brown also testified that his company repaired vehicles for the deceased's company, R.F. Welsh Plumbing and Heating Ltd. and was paid by R.F. Welsh Plumbing and Heating Ltd. as evidenced in Exhibit "D".

There is no evidence before me to indicate that the business arrangement between Halifax Tire Shack (2002) Limited was with the deceased in his personal capacity.

In conclusion, I find the claim filed against the Estate of Reginald F. Welsh is not a claim against the deceased in his personal capacity; but rather a claim against the company, R. F. Welsh Plumbing and Heating Ltd. Therefore the claim is hereby dismissed without costs to either party.

February 14, 2005

Registrar of Probate