

NOT FOR PUBLICATION

Defendant.

ACTION FOR DEBT

CABRET, J.

1 Plaintiff resided in Atlanta, Georgia at all pertinent times.

For approximately a month defendant used electric from Larsen's home, for which he paid him \$20.00. He stated that for the next month or two he observed a cord running from plaintiff's home to defendant's boat.

On cross examination, Larsen admitted that while a worker was there five days a week, he never saw defendant using the power. Moreover, he stated that a Mr. Roderick James, plaintiff's son, used electric at plaintiff's residence during the pertinent timeframe.

Defendant called Mr. Roderick James to the stand. Mr. James testified that plaintiff had given permission to Mr. James' nephew to connect two commercial cooling units to his power supply in July or August of 1994. An electrical problem was discovered in November which caused the units to "have the meter going crazy". (Direct Testimony of Roderick James).

Finally, defendant testified that a man whom he had hired to work on his boat did use current from the James home, with permission from Roderick James' nephew. He estimated the use at four or five days and valued it at approximately \$2.40². He was willing to pay for this use.

Testimony from witnesses for both sides revealed that while defendant did indeed enjoy the benefit of plaintiff's power

² Mr. Pemberton arrived at this figure by estimating 40 hours of use of 500 watt tools, which would be 20,000 watts, or 20 kilowatts, at a rate of \$.11 per kilowatt hour or approximately \$2.40.

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service, plaintiff himself had authorized another use of his current which more realistically accounts for the large power bills received by plaintiff.

Plaintiff failed to present any evidence to support his contention that defendant was using large amounts of his power. He presented a witness who testified to seeing an extension cord running from plaintiff's home to the defendant's boat, but was unable to connect that cord with the actual use of electricity by the defendant. It is the testimony of the plaintiff's nephew, however, which persuades the Court that the true large power user was not Mr. Pemberton, but instead was another. Mr. Roderick James's testimony as to the use of power by his nephew to run two large commercial coolers, a freezer and a refrigerator, convinces the Court that his estimate of the amount of power used by these units coincides with the amount for which plaintiff was billed.

Defendant, however, does admit that he used some power and this cannot be ignored by the Court, no matter how small the amount. The defendant testified, credibly in this Court's judgment, that he may have used, at the most, forty hours of power and estimates, at Virgin Island Water and Power Company rates, a usage worth \$2.40. Judgment, therefore, shall enter for the plaintiff in the amount of \$2.40.


MARIA M. CABRET
Judge