

IN THE TERRITORIAL COURT OF THE VIRGIN ISLANDS
DIVISION OF CHRISTIANSTED, ST. CROIX

TOURISM INDUSTRIES, INC.,	)	
	)	
Plaintiff,	)	CIVIL NO. 360/1979
	)	
vs.	)	
	)	
WILFRED BENJAMIN,	)	ACTION FOR DEBT & DAMAGES
	)	
Defendant.	)	
	)	

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(Pro se)

PETERSEN, Judge

Memorandum Opinion
May 27, 1982

This action was filed by Tourism Industries, Inc., d/b/a Budget Rent-a-Car, (hereafter Budget), to recover debt and damages resulting from the breach of a car rental contract. The facts adduced at trial are as follow:

On August 21, 1978, the Defendant Wilfred Benjamin entered into a contract to rent an automobile from Budget. The original rental agreement required that the car be returned by August 24, 1978. Benjamin returned to Budget and extended the rental agreement to September 4, 1978 and then again to September 7, 1978. The vehicle was to be returned on that date.

Although Budget made repeated demands for the return of the vehicle, Benjamin failed to return it on September 7, 1978, the date that it was due. In fact, he did not return the vehicle or the keys, until September 21, 1978. On that date Benjamin went to the Budget office, returned the car keys

and informed Plaintiff that the vehicle had been wrecked by one of Benjamin's employees. Evidence presented at trial established that the vehicle was a "total wreck."

At trial Benjamin admitted that the vehicle had been wrecked while in his possession. He further admitted that the rental agreement had not been extended to cover the period during which the vehicle had been wrecked.

Plaintiff sued to recover damages in the amount of Four Thousand One Hundred and Twenty Five (\$4,125.00) Dollars which represents the value of the wrecked vehicle. Similarly Plaintiff is seeking to recover Seventy Eight (\$78.00) Dollars in rental fees. ^{1/}

The Defendant admitted liability but raises as a defense an oral contract entered into by Budget and himself. Said agreement provided that Budget would repair the vehicle by replacing the damaged parts with good parts from other wrecked vehicles in its yard. Benjamin, on the other hand was to pay Budget Four Thousand (\$4,000.00) Dollars for the reconditioned vehicle. No evidence was presented by the Plaintiff to deny or rebut the existence of the agreement.

The Court took this matter under advisement to consider whether (1) the print on the rental agreement contract was large enough to put the Defendant on notice as to the terms and conditions of the contract; and (2) whether there was a valid oral contract enforceable as between the parties.

After a careful review of the trial transcript and exhibits the Court finds it unnecessary to decide whether the print on the rental contract is large enough to put the average renter on notice. In this case the evidence clearly established that Benjamin frequently rented vehicles from the

^{1/} Said amount represents the rental fees due and owing. This figure was arrived at by multiplying the daily rental price times the number of days the vehicle was in Benjamin's possession minus the amount previously paid.

Plaintiff. By his own admission Benjamin is a "seasoned" renter with substantial knowledge and experiences regarding the terms and conditions embodied in the standard rental contract. It is the finding of this Court that Benjamin was familiar with the terms of the contract and is thus bound by them.

The Court next considers whether a valid oral contract was entered into by the parties. At trial, the Defendant gave testimony regarding an oral contract. This testimony was neither rebutted nor refuted by the Plaintiff. Consequently, the Court must accept Defendant's testimony as true.

The Restatement of Contracts, Second, Section 1 defines a contract as "a promise or a set of promises for the breach of which the law gives a remedy, or the performance of which the law in some way recognizes as a duty." Benjamin testified that he and Tranthan^{2/} agreed that Budget would reconstruct the wrecked vehicle by replacing the damaged parts with parts from other wrecked cars in Budget's possession. For the reconstructed car, Benjamin was to pay Budget Four Thousand (\$4,000.00) Dollars. Accepting this testimony as true, the Court finds that a valid contract was entered into by the parties. It clearly appeared, from the unrefuted testimony, that there was a complete meeting of the minds upon the necessary terms of the contract. Furthermore, adequate consideration was supplied; "[i]t is the exchange of promises which makes the consideration of the contract, not the performance of these promises..." Wender v. Boldt, 108 A.2d 648, 650 (N.J. Super. Ct. App. Div. 1954).

Having thus decided the Court must determine the appropriate remedies. Commencing from the premise that the oral contract established the price of the reconstructed

^{2/} Mr. Tranthan is the president of Tourism Industries, d/b/a Budget Rent-a-Car.

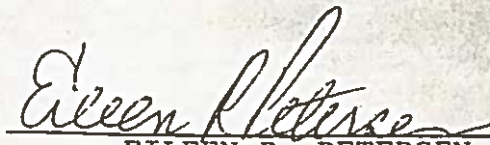
vehicle at Four Thousand (\$4,000.00) Dollars, the Court must decide what remaining damages if any have been suffered by the parties.

It is axiomatic in contract law that damages are intended to give the injured party the benefit of the bargain and to the extent possible put him in the position he would have been in had the contract been performed. Albemarle Paper Co. v. Moody, 422 U.S. 405, 418 (1974).

Section 347 of the Restatement of Contracts, Second provides that "the injured party has a right to damages based on his expectation interest as measured by (a) loss in the value to him of the other party's performance caused by its failure or deficiency, plus (b) any other loss, including incidental or consequential loss, caused by the breach, less (c) any cost or other loss that he has avoided by not having to perform."

Having settled the claim initially for Four Thousand (\$4,000.00) Dollars and having then breached the settlement contract, Plaintiff is not entitled to monetary damages for the harm done to the rental vehicle. Plaintiff may recover however, Seventy Eight (\$78.00) Dollars in rental fee as proved to be owing at trial.

It is therefore, ORDERED, ADJUDGED AND DECREED that the Plaintiff recover from the Defendant the rental fee in the amount of Seventy Eight (\$78.00) Dollars. Each party is further Ordered to bear its own cost and attorneys' fees.


EILEEN R. PETERSEN
Judge