

SUPREME COURT OF NOVA SCOTIA

Citation: *Todd's Trades Ltd. v. The Veteran Farmer Inc.*, 2025 NSSC 345

Date: 20251031

Docket: Hfx No. 545263

Registry: Halifax

Between:

Todd's Trades Ltd.

Appellant

v.

The Veteran Farmer Inc.

Respondent

DECISION

Judge: The Honourable Justice Peter P. Rosinski

Heard: October 27, 2025, in Halifax, Nova Scotia

Counsel: Matt Todd, for the Appellant
Tyler G. White for the Respondent

By the Court:

Introduction

[1] This decision concerns an appeal from a Small Claims Court Adjudicator's Decision and Order filed June 23, 2025.

[2] I allow the appeal without costs.

Background

1 - The relationship between Todd's Trades Ltd. and The Veteran Farmer Inc. was ongoing

[3] Todd's Trades Ltd. ("Todd") did work over a number of months for The Veteran Farmer Inc. ("Farmer") which is headed by Autumn Farmer. Todd would provide invoices to Farmer and Farmer would pay them as they had agreed by way of e-transfers to Todd's email: toddstradesltd@hotmail.com.

[4] Manifold payments were successfully made to Todd in this manner before January 3, 2025.

[5] On January 2, 2025, Todd sent an invoice in the amount of \$16,100 to Farmer. The invoice included that the payment could be made by "E transfer to toddstradesltd@hotmail.com".¹

[6] Farmer paid \$8,100 that day. The \$8,100 e-transfer went through to Todd's bank account.²

[7] The remaining \$8,000 was to be paid the following day because Farmer's account had a limit on the amount of money that could be released by e-transfer each day.

[8] Consistent with the instructions provided Farmer, on January 3, 2025, its accountant Louise had sent an e-transfer for \$8,000 to toddstradesltd@hotmail.com.

¹ See Tab 17, page 2 of the Respondent's Book of Documents.

² See Tabs 18 and 19 of the Respondent's Book of Documents.

[9] On January 13, 2025, Todd emailed Farmer to advise that although he had received payments on January 6, 7 and 8, 2025 by way of E- transfer, he had not received the \$8,000 on January 3, 2025.

[10] Todd sent a screenshot of an email he received Friday, January 3, 2025, at 2:03 pm, from (he believed) Louise, Farmer's accountant, via louisemcfaul7@gmail.com, which was different from the email Farmer had always used previously for her: louise@theveteranfarmer.ca.

[11] The email from louisemcfaul7@gmail.com indicated that Louise was sick on January 3 and unable to process the payment until Monday, January 6, 2025.³

[12] On January 13, 2025, Louise told him in an email that that was not her email address.

[13] The email exchange on January 13, 2025, from Louise to Todd includes Interac e-transfer details "... here is the bank transaction from our records":

Confirmation Number 4140/Transfer Type – Auto deposit; Status – payment received – 10; Sent: 3 January 2025; To: Todd's Tools; Email address: toddstradesltd@hotmail.com; Notified by: email; amount: \$8000.⁴

[My underlining added]

[14] At the bottom thereof the following appears:

2000-2025 Interac Corp. All rights reserved. Terms of use, Trademark of Interac Corp. ... Email or text messages carry the notice while the financial institutions securely transfer the money using existing payment networks. This email was sent to you by Interac Corp. the owner of Interac e- Transfer service, on behalf of RBC Royal Bank.

[My underlining added]

[15] All RBC's email confirmations regarding payments made by Farmer, such as the January 3, 2025, \$8,000 payment intended for Todd, went to the email account of Autumn Farmer each time, not to Louise's email.

[16] Autumn Farmer sent a screenshot to Todd on March 4, 2025⁵ being an RBC email to Farmer, showing the January 2, 2025, \$8,100 amount was deposited to

³ See Tab 24 of the Respondent's Book of Documents.

⁴ The Respondent's Book of Documents, Tab 23. Farmer had referenced Todd in its banking transactions by the nickname "Todd's Tools" which is in contrast to its email: toddstradesltd@hotmail.com.

⁵ Tab 8 of the Respondent's Book of Documents.

Todd's bank account; however, the January 3, 2025, \$8,000 amount was deposited to the account of "Jonathan Watson".

[17] Thus, Louise was unaware on January 3, and likely so as late as January 13, 2025, that the money she intended to transfer to Todd, actually went to a person posing as "Jonathan Watson".⁶

[18] Todd requested that he be paid by Farmer, since he did not get the \$8,000.

[19] Farmer had already sent \$8,000 out of its account for this purpose and refused to send more.

[20] Todd filed a claim against Farmer in the Small Claims Court seeking payment of the \$8,000.

[21] Notably at page 2 of his Notice of Claim, Todd typed under "Small Claims Description":

On January 3, 2025, I... was supposed to receive an email money transfer from The Veteran Farmer for a total of \$8000. I did not receive the transfer. Jonathan Watson of CIBC somehow had my email active to his bank account and that is where the money went. I feel that the Veteran Farmer is still responsible for paying the \$8000 because the accountant has the responsibility to make sure that the information is correct before sending the transfer. The email was correct but the account it was active with was not mine. It would have told her to confirm all the information before sending the money. Jonathan Watson's name would have come up in the auto deposit information prior to clicking "send".... I am owed the money, and the overall problem is a lack of attention prior to sending the transfer and The Veteran Farmer should take the problem up with their bank.

2 - The decision of the Small Claims Court Adjudicator

[22] The Adjudicator stated in his June 23, 2025, decision:

The missing payment in question here did not go to the Claimant's (Todd's) account but was deposited to the credit of a "Jonathan Watson". The Claimant submitted in evidence an email from the Royal Bank dated January 3, 2025, to the Defendant, stating that the \$8000 transfer to Jonathan Watson had been successfully deposited.

⁶ See also Tab 21 of the Respondent's Book of Documents which is an email from RBC to Farmer January 3, 2025, at 9:34 AM "Subject: Interac e- Transfer: Your funds \$8000 to Jonathan Watson has been successfully deposited". This e mail was sent to Autumn Farmer's e mail account.

I conclude that the Claimant’s email account had been hacked by someone whose real name may or may not have been Jonathan Watson. I cannot see how the Defendant can be faulted for doing what it was told to do by the Claimant in order to make these payments. It had never questioned the accuracy of payment instructions from the Claimant in the past. **I conclude that by the time payment to Jonathan Watson had been confirmed by the Royal Bank the money was gone and not retrievable.** If there is any fault to be found, I believe that the Royal Bank may bear some or all of the blame since the money went to an account in their branch. Although I sympathize with the Claimant, **I find that the Defendant is not liable for the loss, and the claim is dismissed.**

[My bolding added]

3 - The Notice of Appeal

[23] Based upon his July 23, 2025, Notice of Appeal, Todd is arguing the Adjudicator committed an error of law and failed to follow the requirements of natural justice. More specifically:

That the adjudicator has stated false information in his “Order” that is incorrect after being supplied the correct information. “The email address to its online bill payment” the email address was for an e- transfer that was set up for auto deposit and the defendant did not confirm who she was sending \$8000 to because Jonathan Watson looks a lot different than Todd’s Tools Ltd. “Including \$8000 payment the day before” which is also false as it was an \$8100 payment the day before.

The fact that after all the information or facts presented to the adjudicator he still came back to say “RBC Bank may bear some or all of the blame since the money went to an account in their branch” which is a false statement, as the money went to an unknown account with the confirmation name of Jonathan Watson.

I filed a small claims, because my customer has and did not want to do an investigation on their end. She told me: “good luck”.

I cannot make RBC investigate it as it’s a privacy issue. I have exhausted all resources to get my money that is owed to me. I completed my services and work and according to my bank statement. I did not receive \$8000 in my bank account on January 3, 2025, or at all. Someone of the name Jonathan Watson did and it’s up to the Defendant and RBC to investigate and deal with the lost funds. Not me!

There were three cases supplied by the Defendant’s lawyer that benefited me in a way that stated from three similar cases that it was found that the sender could have prevented the fraud.

4 - The Adjudicator’s Summary Report of findings

[24] Having received the Notice of Appeal, the Adjudicator filed a Summary Report of findings on August 18, 2025:

1 – On June 11, 2025, the hearing was held in this matter and an Order filed on June 23, 2025.

2 - On the attached page, I set out for the consideration of this Honourable Court a Summary Report of the findings of law and fact made in the case on appeal including the basis of any findings raised in the Notice of Appeal and any interpretation of documents made by me, and a copy of the written reasons for my decision, if any.

...

1 - **This is a matter in which neither party did anything incorrectly that led to the loss alleged by the Appellant.** He provided his email to the Respondent, which in turn transferred two payments to his email, which was set up for auto deposit. The first deposit for \$8100 was received by the Appellant but the second payment, for \$8000 made on January 3 was deposited to an account identified as being that of Jonathan Watson. At Tab 21 of the Defendant’s book of documents is a notice from the Royal Bank to the Respondent indicating that: “your transfer to Jonathan Watson was successfully deposited”. However, **the transfer was sent to the email of [Todd’s] the Appellant and appears to have somehow been intercepted by this Watson individual. Despite the statement in (Todd’s) the Appellant’s claim that the name Jonathan Watson would have come up in the auto deposit form before “send” was clicked, I heard no evidence to that effect. The confirmation of deposit to Watson’s account came to the Respondent after it had been sent to the (Todd’s) Appellant’s email address.**

2 - **My conclusion was that (Todd’s) the Appellant’s email had been hacked and payments made to it redirected.** I did not see that [Farmer] the Respondent had any responsibility to deviate from the method of payment being used. Tab 14 of the Defendant’s Book of Documents contains a record showing 12 e-transfers to (Todd) the Appellant, one of which went astray. **It would not be reasonable to think that the Respondent had any forewarning that one of these payments would go missing.** As I noted in my decision, the only fault that I could find would lie with the Royal Bank, who took the deposit of the missing payment.

[My bolding added]

Consideration of the Appeal herein

[25] Section 32 of the *Small Claims Court Act*, RSNS 1989 c. 430 permits appeals in such cases. The grounds are limited to “jurisdictional error, error of law; or failure to follow the requirements of natural justice”.

[26] Justice Saunders decision in *Brett Motors Leasing Ltd. v. Welsford*, [1999] NSJ No. 466 (SC) has repeatedly been relied on by this Court. At paragraph 14 he stated:

One should bear in mind that the jurisdiction of this Court is confined to questions of law which must rest upon findings of fact as found by the adjudicator. I do not have the authority to go outside the facts as found by the adjudicator and determine from the evidence my own findings of fact. **“Error of law”** is not defined but precedent offers useful guidance as to where a superior court will intervene to redress reversible error. **Examples would include where a statute has been misinterpreted; or when a party has been denied the benefit of statutory provisions under legislation pertaining to the case; or where there has been a clear error on the part of the adjudicator in the interpretation of documents or other evidence; or where the adjudicator has failed to appreciate a valid legal defence; or where there is no evidence to support the conclusions reached; or where the adjudicator has clearly misapplied the evidence in material respects thereby producing an unjust result; or where the adjudicator has failed to apply the appropriate legal principles to the proven facts.** In such instances this Court has intervened either to overturn the decision or to impose some other remedy, such as remitting the case for further consideration.

...

I turn now to a consideration of the suggestion that Brett Motors was denied natural justice. With respect I find no merit to this submission. Once again it seems to me the appellant has confused the issue of repossession or its effect upon the lease/guarantee, and the “cause of action” issue that arises from the limitation defence pleaded by the respondent. Furthermore, **the cases referred to in the appellant’s notice of appeal were neither cited nor mentioned during the adjudication. In the absence of further evidence, both the facts and the issues from those cases may well have been materially different from the facts and issues placed before adjudicator Cooke in this case. One cannot, now, look at other cases and say that those “apply” or that they ought to be taken as “binding precedent” in accordance with the doctrine of *stare decisis*. It is trite to say that the facts of every case may be materially different.** One would have to consider the evidence led in those other cases to be able to say whether the issues confronting the adjudicator were the same. It is not appropriate to suggest, now, that they were. This ground of appeal should be dismissed.

[My bolding added]

[27] A number of cases have considered circumstances of two innocent parties falling prey to a malevolent actor who has intervened in good faith transactions between parties and dispossessed them of monies intended to have been received or paid.

[28] Without intending to be exhaustive, some examples are: 631783 *British Columbia Ltd. v. New-way Trucking Ltd.*, 2025 BCCRT 1246; *Campbell v. Asaph*, 2024 NSSM 48 per SCC Adj Balmanoukian; *Apex Aluminum Extrusions Ltd. v. KD Sales + Service Ltd. and Dale Kadler*, 2023 BCSC 2529 (paras. 51-55 and 105-107); *Jane Group Ltd. v. Heritage Gas Ltd.*, 2022 NSSM 36 (“*Jane Group*”), per SCC Adj. Darling (who specifically relied upon paragraphs 56 and 57 in *St. Lawrence Testing & Inspection Co. Ltd. v. Lanark Leeds Distribution Ltd.*, 2019 CanLII 69697 (ON SCSM) (“*St. Lawrence*”)).

[29] I note that in *Apex* (at para. 52), the Court favourably referenced the *CIBC v. Peaker* case which relied upon Justice Montgomery’s reasons in *CP Hotels Ltd. v. Bank of Montréal*, (1981) 32 OR (2d) 560. The *CP Hotels Ltd.* decision of Montgomery J. was unsuccessfully appealed to the Ontario Court of Appeal; however, in those specific circumstances, his reasoning was rejected by the Supreme Court of Canada - [1987] 1 SCR 711- see, e.g., p.712 *infra*, summary of the case. Therefore, I am of the view that Justice Montgomery’s statement: “The practical approach to take to this issue is to assess it on the principle of two innocents. Where two suffer for the fraud of a third, the one who most enabled that third party to create the fraud should bear the loss.”; should not be considered a formula for “justice” in all similar circumstances.

[30] The Court in *Apex* went on at para. 53 to rely on the reasons of the Deputy Judge in *St. Lawrence* at paras. 56-7; as did Adjudicator Darling in *Jane Group*:

In the course of reviewing these cases, I located an Ontario Small Claims Court decision, *St. Lawrence Testing and Inspection Co. Ltd. V. Lanark Leeds Distribution Ltd. And Mark Schokking* (“*St. Lawrence*”) 2019 CanLII 69697 (ON SCSM). The case dealing with what the Deputy Judge described as “innocent victims of a cybercrime”, I referred it to the parties and gave an opportunity for submissions. Those having been received August 15, 2021, I now add this authority to my review.

The facts *St. Lawrence* in question are substantially similar to what occurred in this case. The Plaintiff, through their legal representative, McDonald Duncan LLP, sued for an unpaid balance for environmental assessment services. An agreement was reached, and by the terms of that agreement the defendant was to pay \$7000 into the trust account of the of McDonald Duncan LLP.

What actually happened was that a hacker sent alternative payment information to the Defendant, and the money in question was therefore paid to the hacker. McDonald Duncan LLP contacted the Alberta Credit Union and the police, as well as encouraging, the Defendant contacted the bank themselves.

McDonald Duncan LLP also had their computer IT service conduct a review which confirmed that it was MacDonalD Duncan LLP that has been hacked, by diverting emails to an exterior third party e-mail account. ...

...The decision maker in this case described what I consider to be a helpful test in circumstances where, as in the case before him, the identity of the party that had been hacked was known:

56. *As noted at the outset of these reasons, the issue in this case can be restated as follows: Where a computer fraudster assumes control of Victim A's email account and, impersonating Victim A, issues instructions to Victim B, who then transfers funds intended for Victim A (or a third party) to the fraudster's account, is Victim A liable for the loss?*

57. *In my view, the answer is "no", unless:*

a. *Victim A and Victim B are parties to a contract which (i) authorizes Victim B to rely on email instructions from Victim A and, (ii) assuming compliance with the terms of the contract, shifts liability for a loss resulting from fraudulent payment instructions to Victim A;*

b. *There is evidence of willful misconduct or dishonesty by Victim A; or*

c. *There is negligence on the part of Victim A.*

[My bolding added]

[31] The cases relied upon by Farmer involve distinguishable circumstances - where parties to a contract authorize a payor to rely on email instructions from the payee, and assuming compliance with the terms of that agreement, liability for a loss resulting from fraudulent payment instructions to the payor by a third party posing as the payee, will see the payee be liable, or where the intended payee was negligent (e.g. *Fox v. Holden*, 2025 BCCRT 258) - (see also: *631783 British Columbia Ltd. v. New-way Trucking Ltd.*, 2025 BCCRT 1246; *St. Lawrence*; and *Du v. Jameson Bank*, 2017 ONSC 2422); or are not persuasive, and/or not binding on this Court.

[32] That is not what happened in this case.

[33] There were no "fraudulent payment instructions" sent to Farmer.

[34] Neither Farmer nor Todd can be said to have "enabled" the theft.

[35] The money never made it to Todd's account – which means it was diverted before it got to his account.

[36] The Adjudicator stated:

The missing payment in question here did not go to the Claimant’s account but was deposited to the credit of a “Jonathan Watson”... **I conclude that the Claimant’s email account had been hacked by someone** whose real name may or may not have been Jonathan Watson. I cannot see how the Defendant can be faulted for doing what was told to do by the Claimant in order to make these payments... I conclude that by the time payment to Jonathan Watson had been confirmed by the Royal Bank the money was gone and not retrievable.

[37] There was no expert evidence presented at the trial. Therefore, the Adjudicator was in no position to “conclude that the Claimant’s email account had been hacked”.⁷

[38] How the thief perpetrated the theft is not precisely known.

[39] However, in general terms, the Adjudicator concluded that: the \$8,000 was put in motion by Farmer’s direction to RBC to pay toddstradesltd@hotmail.com.

[40] RBC released the funds, directing them to that email address via the Interac Corporation’s e-transfer system.

[41] They did not reach Todd’s account. The money delivery system failed to deliver the funds to Todd.

[42] Neither RBC nor the Interac Corporation are parties to this litigation.

Conclusion

[43] Todd’s claim is for breach of contract by Farmer. He did the work and supplied materials and was entitled to be paid \$8,000 on January 3, 2025.

[44] Farmer agreed and intended that he should be paid \$8,000.

[45] Todd did not receive \$8,000.

[46] Why he did not receive \$8,000 from Farmer is immaterial.

[47] As between Farmer and Todd, their obligations are governed by their agreement/contract.

[48] Farmer did not uphold its core contractual obligation to pay Todd the \$8,000.

⁷ See this area of law as canvassed in Eric V. Gottardi, Jennifer A. MacLellan, Michael Lacy, and Robin Flumerfelt, “*Qualifying and Challenging Expert Evidence*” (Emond Publishing: Toronto, 2022)

[49] This is not a case of fraudulent instructions being sent to Farmer, and Farmer misdirecting their payment. The difference here, is that the hacker diverted the funds **after** they were placed in motion by Farmer’s e-transfer instructions to RBC (to effect a transfer of funds to Todd’s account), **but before** they could reach Todd’s designated bank account.

[50] In the yesteryear sense: if Farmer had put cash in an envelope and passed the envelope to the mail delivery system personnel and it did not arrive, Farmer would still be required to pay Todd the \$8,000.

[51] Why should the nature of the manner of payment and consequent diversion of funds be determinative about whether Todd should get paid the \$8,000?

[52] Respectfully, while I appreciate that the Adjudicator stated that “this is a matter in which neither party did anything incorrectly that led to the loss alleged by [Todd]”, I am satisfied that the Adjudicator erred in law, when he concluded that Todd was not entitled to be paid the \$8,000, because, *inter alia*, he “cannot see how the Defendant can be faulted for doing what it was told to do by the Claimant in order to make these payments”.

[53] Although both parties agreed to the manner of payment, in these circumstances, that was not a core contractual component of their agreement but, rather and incidentally, only a means of effecting payment.

[54] Ultimately, it is the responsibility of Farmer to ensure receipt of payment by Todd, as that is a core contractual obligation.

[55] The fact that Farmer genuinely attempted to effect a payment of the monies owed, is not satisfaction of the core contractual obligation to effect payment.

[56] The Adjudicator erred in law.

[57] I overturn the Adjudicator’s decision and will issue an Order that Farmer must pay Todd \$8,000 forthwith, after the Order is granted and provided to Farmer by the Court.

[58] In the circumstances, although claimed, I will decline to order pre-judgment interest or costs be paid to Todd.⁸

⁸ Section 32 of the *Small Claims Court Act*, c. 430 RSNS 1989, reads: “A decision of the Supreme Court pursuant to this Section is final and not subject to appeal.”

Rosinski, J.