

**THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA**

IN THE HIGH COURT OF JUSTICE

CLAIM NO: ANUHCV2011/0509

BETWEEN:

EDMUND MANSOOR

Claimant

and

ANTIGUA PUBLIC UTILITIES AUTHORITY

Defendant

Appearances:

Megan Samuels-Field for the Claimant

Craig Christopher for the Defendant

2013: October 8
 October 16
 December 11

Judgment

- [1] **Cottle, J.:** Under the Public Utilities Act Cap 357 of the Laws of Antigua, the defendant is, by virtue of Section 5, granted the exclusive right to generate, distribute, supply and sell electricity in Antigua and Barbuda and to perform services incidental thereto. The Claimant installed a home security system to protect his home at Cedar Valley Springs in Antigua. As part of that system he had, professionally installed, three Pan Tilt Zoom (PTZ) cameras, as part of a closed circuit television surveillance system.
- [2] During the night of 17th October, 2009 to 18th October, 2009, all three of the PTZ cameras malfunctioned. Subsequent investigation revealed that all had suffered permanent damage to their internal circuitry as a result of electrical power surges. The cameras had been connected to a

surge protector rated at 3,400 joules. They were also connected to an Uninterruptible Power Supply (UPS). The Claimant invited the defendant to compensate him for the replacement of the PTZ cameras as he considered it to be the defendant's unreliable electrical supply which had caused the surges which destroyed the PTZ cameras. The defendant demurred. The defendant says that the claimant failed to adequately protect his equipment before connecting it to the electrical grid. They say that it is in the nature of electrical supply that there would be surges from time to time.

The Claimant's Case

- [3] The Claimant gave evidence and called one witness in support. The Claimant says that his home surveillance system had been installed by the leading local firm in the field. On their advice he purchased a surge protector manufactured by the American Power Corporation a well known and respected supplier of surge protector equipment. He bought the unit affording the greatest level of protection available at 3,400 joules despite having been advised that a protector rated at 1200 joules would be adequate for his domestic needs. When cross examined, the claimant admitted that he was not familiar with the technical terms "voltage clamping requirement" and "response time requirement" as these applied to surge protectors. He had not considered these characteristics when purchasing and installing the surge protector for his surveillance system. In his pleadings, the claimant did not aver any damage to any other items or electrical appliances. In his testimony there was an effort to say that other items had also suffered damage in the power surge but this not having been foreshadowed in the pleadings, was not considered by the Court.
- [4] Mr. Roland Campbell was the technician who advised the Claimant and installed the surveillance system. It was he who determined, after inspecting the PTZ cameras, that they had been damaged beyond repair by electrical spikes or surges. He came to this conclusion upon seeing the burnt wires and smelling the burnt units. He too wished to add that he noticed other burnt components but as noted above this evidence was not considered.
- [5] When cross examined, he agreed that a power surge could occur if the main electricity was interrupted and a back-up generator switched on. He did not think this to have been the case

because the solenoid on the back-up generator was not burnt. He performed no technical tests on the burnt PTZ cameras.

The Defendant's Case

- [6] There were two witnesses for the defendant. Mr. Andre Matthias is the Chief Electrical Engineer of the defendant. He testified that in considering a surge protector, it is necessary to look at the voltage clamping and response time in addition to the joules rating. He thought this would be known to a reasonably competent technician, such as Mr. Campbell. He also added that PTZ cameras are highly sensitive and a quick response time in the surge protector was needed to keep them safe.
- [7] Mr. Matthias testified that the tests performed by Mr. Campbell, visual observation and smelling were wholly inadequate to conclusively determine that the damage to the PTZ cameras resulted from electrical power surges. Mr. Matthias concluded that the reason the PTZ cameras were damaged was because the response time of the surge protector was too slow. He arrived at that conclusion because he asserted that only the PTZ cameras were damaged. If the surge protector was adequate to protect the UPS and digital video recorder (DVR) which also formed part of the surveillance system, then the only conclusion possible was that the response time was too slow to save the PTZ cameras. There is a flaw in this argument. The Claimant did not plead that other items specifically the DVR and UPS, had been damaged. When cross examined both the Claimant and his witness said that both had been burnt by the surge. The defendant led no evidence to establish that the items had not been damaged. In the state of the pleadings and evidence, this court could make no factual determination either way. Thus the defendant's witness cannot use a "fact" not established as the basis for his conclusion.
- [8] Mr. Matthias conceded that the defendant had in the past compensated customers for items destroyed by power surges even when these items had been connected to what he considered to have been adequate surge protection. At times there could be surges which would overcome any level of protection.

- [9] Mr. Steadroy Roach is the Customer Service Engineer. He dispatched two technicians to inspect the home of the Claimant after a complaint had been received of the damaged PTZ cameras. He too, visited the home subsequently. He saw the surge protector rated at 3,400 joules. The technicians produced a report form. It is notable for its brevity. Though it does mention a UPS and surge protector, these are not described. The report speaks of a damaged CCTV surveillance system. It does not detail which elements of the system were damaged. The form provides for Mr. Roach to recommend whether the defendant should bear some, all, or none of the responsibility for the damage. Mr. Roach made no recommendation and did not sign the form. It is on the basis of that form that he now says that the defendant ought not to be liable.
- [10] The defendant is public authority. It is exclusively empowered to supply electricity. The public is therefore entitled to be provided with a service that meets certain standards. Certainly, the defendant is not permitted to supply power in a manner that negligently causes loss to the public. It is patent that they would have had customers like the claimant in mind when they supply electricity. Indeed, such customers are the *raison d'être* of the deft.
- [11] The damage sustained by the claimant is of a kind which would not occur if the defendant had exercised proper care in the supply of electricity. It is for the defendant to provide an explanation if it can. In the present case I find the defendant's explanation wanting. They suggest that the Claimant's surge protector did not have a quick enough response time. Despite their expertise in this area, they offered no evidence of the response time that would have sufficed.
- [12] They do not tell the court what was the response time of the surge protector used by the Claimant. Instead they offer the circular logic that since they cameras were damaged, the response time must have been inadequate. Yet they concede that some surges are sufficient to overcome any level of protection. I find that the defendant has failed to satisfy me on a balance of probability that the explanation they proffer is enough to absolve them.
- [13] I find it more likely than not that the PTZ cameras were damaged by an electrical surge in the power supplied by the defendant. There is no evidence before me that the surge protection used

by the claimant was inadequate either in joules rating, voltage clamping or response time. On the contrary the evidence is that the joules rating was more than needed.

- [14] In the circumstances, I find that the claimant has succeeded. Judgment is entered for the claimant for \$18,826.48, the replacement cost of the PTZ cameras. The defendant will pay interest on this sum at the rate of 5% per annum from judgment until payment. The defendant will pay the claimant's prescribed costs on this amount.

A handwritten signature in black ink, appearing to read 'Brian Cottle', with a stylized flourish at the end.

Brian Cottle
High Court Judge