

MARKS & WEINBERG, P.C.

IFC Credit Corp. v. Bulk Petroleum Corp.

403 F.3d 869 (7th Cir. 2005)

Lessor brought suit against Lessee alleging breach of a lease agreement under which Lessee leased gasoline tanks and other equipment from Lessor with an option to purchase at the end of the lease term. Lessee claimed that the lease had been concluded through an accord and satisfaction executed with the assignee of Lessor's rights under the lease. Lessee entered into a lease with Lessor for a 72-month lease term beginning in 1995. Lessor assigned the lease to Finova Capital Corp. ("Assignee") two weeks later.

Beginning in 2000, Lessee and Lessor began negotiations concerning the termination of the lease and Assignee instructed Lessee to conduct such negotiations with Lessor. Subsequently, Lessee sent a check and letter to Assignee stating that the check was in full satisfaction of both the lease agreement and purchase option. Assignee negotiated the check three days later. Lessor retained the money, claiming that it was only partial satisfaction of the lease and option, and filed suit against Lessee seeking damages for breach of the lease agreement. Lessee filed a motion for summary judgment, which was granted. Lessor appealed the district court's decision.

The Appeals Court affirmed the Magistrate Courts ruling granting Lessee's motion for summary judgment, ruling that a valid accord and satisfaction had taken place. The court noted that to constitute an accord and satisfaction there must be: (1) a bona fide dispute;



(2) an unliquidated sum; (3) consideration; (4) a shared and mutual intent to compromise the claim; (5) execution of the agreement; and (6) the instrument or accompanying written communication contain a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim. Additionally, under the UCC an otherwise valid tender to a claimant "organization" fails if (A) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted stating the person, office, or place where communications should be directed, and (B) the instrument or accompanying communication was not received by that designated person, office, or place. The court noted that Lessee violated this portion of the UCC by sending the check to the wrong person at Assignee, however this issue was not raised at the district court level, and the court stated that it was a minor mistake. Since all of the other requirements were satisfied for accord and satisfaction, the court held that Lessee no longer had any obligation under the lease.

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