COMMONWEALTH OF PENNSYLVANIA

JEFFREY PRYCL d/b/a ROCKY MOUNTAIN GARAGE & AUTO BODY	:	BEFORE THE BOARD OF CLAIMS
VS.	:	
COMMONWEALTH OF PENNSYLVANIA, DEPARTMENT OF TRANSPORTATION	:	DOCKET NO. 2307

FINDINGS OF FACT

1. Plaintiff is Jeffrey Prycl, an adult individual whose business address is RD#1, New Stanton, Pennsylvania 15672. Plaintiff does business under the name of Rocky Mountain Garage & Auto Body. (Stipulated)

2. Defendant is Commonwealth of Pennsylvania, Department of Transportation (hereinafter "PennDOT") located at Forum Place, 555 Walnut Street, Harrisburg, Pennsylvania 17101-1900. (Stipulated)

3. On or about June, 1994, Defendant advertised a Request for Proposal for Bids for a Service Purchase Contract for the sandblasting and painting of various PennDOT vehicles and equipment. (N.T. 17-19)

4. On or about August, 1994, Plaintiff forwarded to Defendant a Proposal to sandblast various PennDOT vehicles for the sum of Twenty-Four Thousand Nine Hundred Sixty Dollars ($24,960). (Stipulated)

5. On or about August, 1994, Plaintiff forwarded to Defendant a Proposal to paint various PennDOT vehicles for the sum of Thirty Thousand Four Hundred Eighty Dollars ($30,480). (Stipulated)

6. Plaintiff was not the low bidder and was therefore not awarded the Service Purchase Contract (SPC) for sandblasting various PennDOT vehicles. (Stipulated)

7. Plaintiff was awarded an SPC for painting various PennDOT vehicles. (Stipulated)

8. Ultimately, subsequent to the award of the sandblasting and painting Service Purchase Contract, Respondent requested that Plaintiff and the other successful bidder resubmit bids for a combined sandblasting and painting Service Purchase Contract of the PennDOT vehicles. (Stipulated)

9. Both Plaintiff and the other successful bidder agreed to the rebidding. (Stipulated)

10. Subsequently, Defendant issued its Request for Proposal for Bids for a combined sandblasting and painting Service Purchase Contract of the PennDOT vehicles. (N.T. 26)

11. On or about September 13, 1994, Plaintiff submitted a Proposal to sandblast and paint various PennDOT vehicles for the sum of Forty-Three Thousand Seven Hundred Ten Dollars ($43,710). (Stipulated)

12. Defendant eventually accepted Plaintiff's Proposal and awarded to Plaintiff a Service Purchase Contract. (Stipulated)

13. The original termination date of the Service Purchase Contract was December 31, 1995. (Stipulated)

14. By October 1995, Plaintiff had sandblasted only one of the PennDOT vehicles. Plaintiff received full payment from Defendant in November 1995 for this work completed in the amount of One Thousand Five Hundred Six Dollars ($1,506). (Stipulated)

15. On or about December 6, 1995, Defendant agreed to extend the termination of the Service Purchase Contract to June 30, 1996. (Stipulated)

16. On June 30, 1996, Plaintiff's Service Purchase Contract with Defendant, as amended, expired.

17. Plaintiff was fully compensated for all incurred costs. (N.T. 161-162)

CONCLUSIONS OF LAW

1. The Board of Claims has jurisdiction over the subject matter of this action and the parties thereto. 72 P.S. 4651-1, et seq.

2. Plaintiff and Defendant entered into a valid Service Purchase Contract for the combined sandblasting and painting of various PennDOT vehicles.

3. The Service Purchase Contract did not contain any claim or provision requiring the full expenditure of the allocated funds contained therein.

4. The Service Purchase Contract did not contain any contract provision or clause mandating any extension of the Service Purchase Contract until such time as the fully allocated funds were expended.

5. The Service Purchase Contract between the Plaintiff and Defendant contained at paragraph 26 the following statement: "Contractor shall only be compensated for satisfactory work completed."

6. During the period of the Service Purchase Contract Plaintiff was fully compensated for the work performed.

7. The actions of the Defendant in carrying out the terms of the Contract were not in bad faith and are not sufficient to sustain a bad faith or breach of contract action on behalf of the Plaintiff.

OPINION

This matter was called to a hearing before a Panel of the Board of Claims, composed of Richard B. Swartz, Esquire, Attorney Member, and Conrad E. Kambic, P.E., Engineer Member. The Panel Report has been submitted and reviewed.

This case involves the interpretation of a Contract entered into between the Plaintiff and Defendant for the painting and sandblasting of PennDOT vehicles. The Contract, a Service Purchase Contract, was for an amount not to exceed Forty-Three Thousand Seven Hundred Ten Dollars ($43,710). Plaintiff brought this cause of action for lost profits based upon the theory that Defendant acted in bad faith in executing the terms of the Contract by (1) allowing another business to perform the work Plaintiff agreed to perform on the same vehicles; or (2) failing to provide Plaintiff with vehicles to work on. Paragraph 26 of the Contract between the parties is the crux of the dispute and it states as follows: "Contractor (Plaintiff) shall only be compensated for satisfactory work completed."

It is axiomatic in the interpretation of a contract that the Court's main obligation is to ascertain and give effect to the parties intent. Gallagher v. Fidler, Inc., 657 A.2d 31 (Pa. Super. Ct. 1995). This is to be determined by giving the words of the contract their ordinary meaning. Id.

Paragraph 26 could not be any clearer. It contains the mandatory language “shall” followed by the adverb "only", to describe when the Contractor is to be paid. There are no contingencies or exceptions to the language. No words of limitation are used. The Contractor shall only be compensated for satisfactory work completed. That is precisely what happened in the within case. Plaintiff was paid for the work that it performed, nothing more, nothing less. Contrary to Plaintiff’s belief, there was no obligation on the part of the Defendant to provide a certain number of vehicles to have work performed. The amounts listed on Page 1 of the Contract between the parties represent the maximum amount of equipment that may have been assigned to Plaintiff, as well as the maximum amount of money that the Contract was worth. The Contract states [right] on its face that it is not to exceed $43,710. This is indicative of it being a unit price Contract. The fact that the Commonwealth did not affirmatively cancel the Contract pursuant to Paragraphs 21 and 22 is of no moment. For all of the above reasons, the Board hereby denies the Claim.

ORDER

AND NOW, this 10th day of August, 2000, the Claim of Jeffrey Prycl, d/b/a Rocky Mountain Garage & Auto Body is hereby **DENIED** and **DISMISSED**. Judgment is entered in favor of Defendant, Commonwealth of Pennsylvania, Department of Transportation and against the Plaintiff, Jeffrey Prycl d/b/a Rocky Mountain Garage & Auto Body for zero (0) dollars.

Each party to bear its own costs and attorneys' fees.

BOARD OF CLAIMS

David C. Clipper
Chief Administrative Judge

Louis G. O'Brien
Engineer Member

James W. Harris
Citizen Member

Aug. 10, 2000