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Invoice errors 'not a reason' for firms to escape late payment interest

The fact that a supplier makes some mistakes on its invoices is not a good enough reason for a customer who doesn't settle the account on time to avoid late payment interest.

That was the ruling handed down by the Court of Appeal in a case that will give encouragement to all businesses facing cash flow problems because of late payments.

The case involved a company called Ruttle Plant Hire Ltd and the Department for Environment, Food and Rural Affairs (DEFRA). Ruttle had carried out some

work for DEFRA but the contract had been arranged in a hurry and the terms of business had not been clearly defined.

When the invoices were not paid on time, Ruttle claimed it was entitled to charge interest under the Late Payment of Commercial Debt (Interest) Act 1998. However, the judge ruled against Ruttle because there were mistakes on some invoices which were calculated using the wrong rates for plant hire. Ruttle then took the case to the Court of Appeal.

Lord Justice Jacob said the issue was whether or not the "notice of the amount

of the debt" required that the invoice should be correct before the provisions of the Act would apply.

DEFRA submitted that any error, regardless of how small, would be enough to prevent the Act applying and interest being payable. The Appeal Court judges rejected this argument saying there was no reason to interpret the requirements of the Act as meaning that the amount stated on the invoices should be "the true amount, the whole true amount and nothing but the true amount".

He said it would make no sense to suggest that the Act required the invoice to be perfect before interest could be charged. If that were the case then a customer might start looking for the smallest detail of error in an invoice so he could avoid being charged interest if he failed to pay on time and so the purpose of the Act would be frustrated.

It would be acceptable for a company to withhold payment for sums which were in doubt but that right could not be extended to paying nothing at all and then expecting to escape the high rates of interest chargeable under the Act.

The case illustrates that the law offers considerable protection to companies pursuing debts and dealing with late payments. Please contact us if you would like more information.

Small firms in London are the hardest hit by falling sales

Small firms in London have been hit harder by the recession than their counterparts in other areas of the country.

It's led to widespread job losses in the capital.

Those are some of the findings of a survey commissioned by the Finance & Leasing Association and carried out by the Open University Business School.

The researchers questioned 1,300 small and medium-sized enterprises (SMEs) and found that 71% of those in London had suffered falling or stagnant sales in the fourth quarter of 2008.

The fall meant nearly 23% of those firms had to lay off staff – the highest number in the country. The slump in demand meant a smaller proportion of London firms were able to increase their prices, putting even more pressure on profit margins.

The research also shows that SMEs have become increasingly concerned about cashflow, payments and debtors. They see these issues as their second biggest problem after the economic climate. The situation has got so bad that "small firms are usually owed more by their customers than they owe to suppliers, often ending up funding larger businesses because of the late payment of bills".

Smaller firms have generally fared worse than their larger counterparts



during the current downturn. Those with a turnover of under £100,000 have tended to experience a fall in sales while those with a turnover of more than half a million have tended to see sales rise. Small retailers and construction firms have been the worst affected while health, education, leisure and the manufacturing sectors have performed best.

Stephen Sklaroff, director general of the Finance and Leasing Association, said: "The challenges for London SMEs need to be taken seriously. Small businesses across the capital are facing tough credit conditions and finding it difficult to get their bills paid on time."

SMEs in other areas such as the South West, East Anglia and the West Midlands have also fared badly with sales either falling or remaining stagnant. By contrast, firms in the North East and Scotland are still enjoying healthy sales growth.

Where next



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More than 65 firms a day going out of business

More than 65 firms a day went out of business last year, according to research by the information services company Experian. Its insolvency statistics show that there were 23,879 business failures in 2008 – a rise of 30% compared with 2007.

The problems got significantly worse towards the end of the year. Experian's Insolvency Report and Distress Index lists 7,238 failures between October and the end of December 2008. That represents a rise of 52% on the same period in 2007.

London was one of the worst hit cities in the final quarter of last year with a total of 1,221 business failures. The figures for the types of insolvency are also revealing. They show that there was a

Early action can help recover debts

143% increase in receiverships in 2008, indicating the increased sense of caution among banks and the fact that they are now quicker to call in debt.

However, Experian says that voluntary liquidations are still the most common type of business failure. Some 11,255 businesses were put into liquidation by their shareholders in 2008 – an increase of 24% on 2007.

The figures emphasise the need for firms to do their research before doing business with other companies. It is also important to remain vigilant and look out

for any indications that a company may be heading into difficulties.

Tony Pullen, Managing Director of Experian's Business Information division, said: "Warning signs can include a major reduction in share capital and late filing of accounts through to adverse notices, such as County Court Judgements. We also advise clients to use payment performance data to identify companies' payment patterns and worsening payment trends, which are strong indicators of reduced cashflow, which can then lead to possible insolvency."

Once a potential problem has been identified it is important that firms seek legal advice so they can act quickly. Early intervention by a solicitor can help recover debts before it is too late.

Debt collection staff subjected to increasing abuse

The Credit Services Association (CSA) says that debt collection staff are being subjected to increasing levels of abuse during routine collection calls.

CSA member firms employ 25,000 people in the UK on a full or part time basis. More than half of them are women. These employees deal with more than 20m debt cases every year with a total value of £15bn.

As the recession deepens, they find themselves facing unacceptable levels of abuse on a regular basis. The problem has got so bad that the CSA has started training courses on how to deal with difficult situations while maintaining a professional demeanour.



Gillian Forrest-Elliot, who is head of training at the CSA, told Credit Today magazine: "No one wants a call from a debt collector, we understand that. We know that no one likes debt collectors in the same way that no one likes traffic wardens, but they are in fact normal people doing an extremely important job, and nobody deserves to be routinely subjected to abuse in the workplace. It should not be seen as 'part and parcel' of the job."

"The abuse, ranging from minor profanities to serious threats, is clearly distressing to all involved, particularly given the low average age of collectors, and the fact that over 15,000 collectors are female. It must not be tolerated."

The card fraud capital of Britain

London is the country's card fraud capital, according to research carried out by the life assistance company CPP.

Its annual Card Fraud Index identifies hotspots across the UK and measures the rise and fall in the number of offences committed. CPP's research shows that card fraud in London rose by 10% in 2008 making it the worst hit area for the second year running.

The rise was only 5% across the rest of the country. It means that over two million Londoners – more than one in three people – have fallen victim at some point in their lives. Nationally, the figure is 12 million people or one in four.

Online fraud seems to be the growing area affecting 39% of victims while card cloning from a cash point or a chip and pin device accounted for 21%.

Surprisingly perhaps, only 10% of cards reported lost or stolen are being used fraudulently.

The average sum stolen in a fraudulent transaction is £650, while one in 20 victims report losses of more than £2,000. More than 40% of victims didn't know about any fraudulent transactions until they were alerted by their bank. That figure is up 6% on last year.

Kerry D'Souza, card fraud expert



from CPP, said: "The dramatic increase in card fraud shows no sign of abating which isn't surprising given the desperate measures

some people will resort to during the recession.

"Fraudsters are becoming increasingly sophisticated, especially when it comes to online transactions which are a particular cause for concern.

"Cardholders need to remain vigilant with their cards and take the necessary steps to protect themselves – from checking statements more frequently to keeping sight of their card when paying."