

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

K&N TRUCKING, INC.,

Plaintiff,

v.

Case No.: 8:16-cv-3087-T-24 AEP

FOUNDATION XPRESS, LLC,

Defendant.

ORDER

This cause comes before the Court on Plaintiff's Motion for Default Judgment. (Doc. No. 38). The Court held an evidentiary hearing on the motion on February 9, 2018. As explained below, the motion is granted.

I. Background

Plaintiff filed suit against Defendant on November 1, 2016, asserting claims for violations of the Truth in Leasing Act (Counts I and II), as well as a claim for breach of contract (Count III). (Doc. No.1). Plaintiff alleges that Defendant failed to properly compensate it and made unlawful deductions from the compensation it owed to Plaintiff. (Doc. No. 1). In response, Defendant filed an answer and counterclaim for breach of two contracts. (Doc. No. 8).

On October 23, 2017, Defendant's counsel withdrew from this case, and the Court gave Defendant thirty days to obtain new counsel. (Doc. No. 32). Defendant failed to obtain new counsel, and Plaintiff moved for entry of default against Defendant. (Doc. No. 34). The Clerk entered default against Defendant. (Doc. No. 35). On January 30, 2018, the Court dismissed Defendant's counterclaim for lack of prosecution. (Doc. No. 39). Now Plaintiff moves for

default judgment (Doc. No. 38).

II. Motion for Default Judgment

Plaintiff initially sought default judgment in the amount of \$76,004.25, which consisted of \$64,754.25 in compensation owed (without the contested deductions), plus \$20,000 in escrow payments that Plaintiff had made, less \$8,750 due on a loan. (Doc. No. 38, p. 11). However, at the evidentiary hearing, Allan Achillich, the sole owner of Plaintiff, testified that the amount of the default judgment being sought should also be reduced by \$14,766.84 for fuel charges. Thus, Plaintiff now seeks default judgment in the amount of \$61,237.41 for all three of its claims. Upon consideration, the Court finds that default judgment in the amount of \$61,237.41 is warranted.

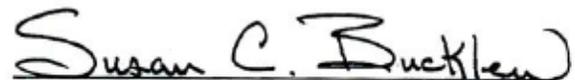
Plaintiff also asks that the Court retain jurisdiction to determine the issues of attorneys' fees and costs. Since the Court has granted judgment for Plaintiff on its claims for violations of the Truth in Leasing Act, brought pursuant to 49 U.S.C. § 14704(a)(2), Plaintiff is also entitled to attorneys' fees, pursuant to 49 U.S.C. § 14704(e). The Court will retain jurisdiction to determine the issues of attorneys' fees and costs.

III. Conclusion

Accordingly, it is ORDERED AND ADJUDGED that:

- (1) Plaintiff's Motion for Default Judgment (Doc. No. 38) is **GRANTED**.
- (2) The Clerk is directed to enter default judgment in favor of Plaintiff in the total amount of \$61,237.41 for Counts I, II, and II.
- (3) The Clerk is directed to close this case.
- (4) The Court retains jurisdiction to determine the issues of attorneys' fees and costs.

DONE AND ORDERED at Tampa, Florida, this 9th day of February, 2018.


SUSAN C. BUCKLEW
United States District Judge

Copies to:
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