

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

WATERFURNACE INTERNATIONAL,)	
INC.,)	
)	
Plaintiff,)	
)	Case No. 1:15-CV-008 JD
v.)	
)	
B&S SHEET METAL MECHANICAL,)	
INC., <i>et al.</i> ,)	
)	
Defendants.)	

OPINION AND ORDER

Now before the Court is Plaintiff WaterFurnace International, Inc.’s motion for attorney’s fees, expenses, and costs. [DE 20]. The Court previously granted a motion for default judgment as to defendants B&S Sheet Metal Mechanical, Inc.; B&S Sheet Metal Mechanical, Inc. d/b/a Jackson Geothermal HVAC and Drilling, LLC; and Jackson Geothermal HVAC and Drilling, LLC (the “entity defendants”), but denied the motion as to two individual defendants. In that order, the Court detailed the damages to be awarded pursuant to the default judgment, save for the amount of attorneys’ fees, expenses, and costs, which WaterFurnace had not quantified in its motion for default judgment. WaterFurnace has now submitted those amounts and supported them with affidavits and billing records, and the defendants have not responded.

As discussed in the previous order, attorneys’ fees, costs, and expenses are awardable in this action because the contract upon which the action is based specifically provides for the recovery of such amounts incurred in collection of past due accounts. *Stewart v. TT Commercial One, LLC*, 911 N.E.2d 51, 58 (Ind. Ct. App. 2009). WaterFurnace seeks a total award of \$7,541.17 on this basis, which includes \$3,178.50 in attorney fees for services provided by attorney Richard DeLaney (16.3 hours at \$195.00 per hour); \$3,510.00 in attorney fees for

services provided by attorney Adrian L. Halverstadt III (23.4 hours at \$150.00 per hour); \$520.00 in fees for services provided by a private process server; \$151.67 for postage, copies, long-distance calls, and mileage; and \$181 in court costs to initiate this matter in state court. The affidavits and billing records corroborate that those fees and costs were actually incurred, and the Court finds the amounts are reasonable. Accordingly, the Court GRANTS the motion [DE 20] and will award those additional amounts as part of the default judgment against the entity defendants.

Finally, the Court again notes that the default judgment only resolves the claims against the entity defendants; this action remains pending as to the claims against the individuals. WaterFurnace has not moved for entry of a partial final judgment as to the entity defendants under Rule 54(b), nor has it taken any action relative to the individual defendants since the denial of the motion for default judgment as to those defendants. Accordingly, WaterFurnace is ORDERED to file a status report by no later than January 4, 2016 in which it indicates whether it intends to proceed with the claims that remain at issue in this case.

SO ORDERED.

ENTERED: December 1, 2015

 /s/ JON E. DEGUILIO
Judge
United States District Court