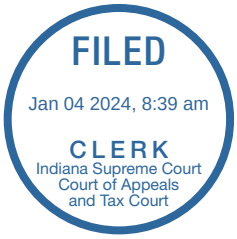
MEMORANDUM DECISION



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IN THE COURT OF APPEALS OF INDIANA

The Monroe Apartments,
Appellant-Defendant,

v.

Lillie Watson and Nicholas Dotson,
Appellees-Plaintiffs.

January 4, 2024

Court of Appeals Case No. 23A-SC-1294

Appeal from the Floyd Superior Court

The Honorable Julie F. Flanigan, Magistrate

Trial Court Cause No. 22D02-2212-SC-935

Memorandum Decision by Judge Bradford
Judge Vaidik concurs.
Judge Brown concurs in result with opinion.

Bradford, Judge.

Case Summary

[1] Lillie Watson and Nicholas Dotson sued The Monroe Apartments ("the apartment complex"), claiming that the apartment complex had improperly failed to return their security deposit and had caused them emotional distress. Following an evidentiary hearing, the small-claims court entered a $3500.00 judgment against the apartment complex. The apartment complex filed a motion to correct error, which was denied. On appeal, the apartment complex challenges the small-claims court's judgment and contends that the small-claims court erred in denying its motion to correct error. Because we disagree, we affirm.

Facts and Procedural History

[2] Watson and Dotson moved into the apartment complex in November of 2021. They moved out of the apartment complex on October 31, 2022. Watson and Dotson alleged that during the time they had lived at the apartment complex, they had experienced unresolved maintenance issues as well as "squirrel problems, rat problems, like mouse problems." Tr. Vol. II p. 8. Despite being told that they would receive a refund of their security deposit upon moving out of their apartment, Watson and Dotson never received the refund of their security deposit.

[3] On December 9, 2022, Watson and Dotson filed a notice of claim in the small-claims court in which they sought to recover $3500.00 from the apartment

complex. Watson and Dotson alleged that they had suffered "[e]motional distress [due to the] condition of apartment throughout entire lease, health conditions throughout lease due to condition of the apartments filter system, physical health problems due to condition of apartment." Appellant's App. Vol. II p. 7. They further alleged that they had been "[l]eft homeless due to security deposit not being returned after being told [they] would get it back." Appellant's App. Vol. II p. 7.

[4] The small-claims court conducted an evidentiary hearing on April 11, 2023. During the hearing, Watson testified that she and Dotson had paid $920.00 per month in rent, had paid a security deposit via a "MoneyGram from Walmart," and that she believed the amount of the security deposit was "one month's rent." Tr. Vol. II p. 12. Watson's grandmother also testified that she had been told by a representative for the apartment complex that the security deposit "was one month's rent." Tr. Vol. II p. 41. The apartment complex contested Watson's testimony that she and Dotson had paid a security deposit, claiming that Watson and Dotson had not paid a security deposit and producing a purported copy of the lease agreement indicating that the security deposit had been "$0.00." Ex. Vol. p. 3. Watson also testified about the emotional stress and mental-health issues that the apartment complex had caused for both her and Dotson. Watson and Dotson also presented evidence indicating that Dotson had sustained injuries after he had slipped on paint that had been in the bathtub and that both had become sick with upper-respiratory conditions while living in the apartment complex.

[5] Two days after the hearing, the small-claims court entered judgment in favor of Watson and Dotson in the amount of $3500.00. The apartment complex filed a motion to correct error, in which it requested that the small-claims court vacate its judgment or, alternatively, "amend its April 13, 2023 Order to include its findings of fact and conclusions of law for appellate review." Appellant's App. Vol. II p. 11. On May 10, 2023, the small-claims court denied both the apartment complex's motion to correct error and its "alternative request for the Court to amend its order to include findings of fact and conclusions of law." Appellant's App. Vol. II p. 6.

Discussion and Decision

[6] "We generally review small claims judgments for clear error, giving considerable deference to the small claims court and its assessment of witness credibility." *Piccadilly Mgmt. v. Abney*, 215 N.E.3d 1078, 1079 (Ind. Ct. App. 2023). Stated differently, we do not reweigh the evidence or determine the credibility of witnesses but consider only the evidence that supports the judgment and the reasonable inferences to be drawn from that evidence. *Scott-LaRosa v. Lewis*, 44 N.E.3d 89, 93 (Ind. Ct. App. 2015). "A judgment in favor of a party having the burden of proof will be affirmed if the evidence was such that from it a reasonable trier of fact could conclude that the elements of the party's claim were established by a preponderance of evidence." *Id.* (internal quotation omitted). "Because small claims courts were designed to dispense justice efficiently by applying substantive law in an informal setting, this

deferential standard of review is particularly appropriate." *N. Ind. Pub. Serv. Co. v. Josh's Lawn & Snow, LLC*, 130 N.E.3d 1191, 1193 (Ind. Ct. App. 2019). However, "[t]he burdens of proof are the same in a small claims suit as they would have been if suit had been filed in a trial court of general jurisdiction." *Id.*

[7] In addition, we note that the apartment complex is appealing from the small-claims court's denial of its motion to correct error. We will reverse a denial of a motion to correct error only for an abuse of discretion. *In re G.R.*, 863 N.E.2d 323, 325 (Ind. Ct. App. 2007). "An abuse of discretion occurs when the [small-claims] court's decision is against the logic and effect of the facts and circumstances before the court or if the court has misinterpreted the law. *Id.* at 325–26.

I. Challenges to the Judgment in Favor of Watson & Dotson

[8] The apartment complex first contends that Watson and Dotson failed to meet their burden of proof, arguing that they "presented no evidence other than their word for any damages sought." Appellant's Br. p. 12. We agree with the apartment complex that a trier-of-fact "may not award damages on the mere basis of conjecture or speculation." *Johnson v. Shanehsaz*, 152 N.E.3d 7, 19 (Ind. Ct. App. 2020). However, we note that an award for damages relating to claim of emotional distress will not be disturbed "if there is any evidence in the record which supports the amount of the award, even if it is variable or conflicting." *Landis v. Landis*, 664 N.E.2d 754, 756 (Ind. Ct. App. 1996), *trans. denied*.

[9] In filing suit against the apartment complex, Watson and Dotson requested relief in the amount of $3500.00, which they asserted represented their security deposit that the apartment complex had wrongly failed to refund and damages associated with health issues and emotional distress that they had suffered due to the apartment complex's actions. While Watson and Dotson did not present much, if any, documentary evidence supporting their claim, they presented witness testimony supporting it. Watson, Dotson, and Watson's grandmother testified regarding Watson's and Dotson's claim of damages as well as the amount of the security deposit that they had paid. The small-claims court, acting as the trier-of-fact, ultimately found this testimony to be more credible than that proffered by the apartment complex. We will not second-guess the small-claims court's credibility determination on appeal. *See Scott-LaRosa*, 44 N.E.3d at 93.

[10] We are likewise unconvinced by the apartment complex's assertion that the small-claims court improperly shifted the burden of proof to the apartment complex or failed to preside over the proceedings in a neutral or impartial manner. Again, small-claims courts were designed to dispense justice efficiently by applying substantive law in an informal setting. *See generally, Josh's Lawn & Snow*, 130 N.E.3d at 1193. The small-claims court granted both parties latitude in their presentations of the evidence and asked both parties questions about the legal issues that were pertinent to the parties' arguments.

[11] After Watson and Dotson presented testimony indicating that they had paid a security deposit, the trial court granted the apartment complex the opportunity

to counter Watson's and Dotson's evidence by presenting its own evidence in opposition. This did not shift the burden of proof to the apartment complex but rather gave the apartment complex the opportunity to attempt to counter Watson's and Dotson's evidence. *See generally, Snow v. Cannelton Sewer Pipe Co.*, 138 Ind. App. 119, 123, 210 N.E.2d 118, 120–21 (1965) (providing that after the plaintiff has established his case, the defendant has the burden of going forward with the evidence to explain away the inference and although the burden of proof does not shift to the defendant, the defendant must present proof which could explain away the inferences created by the plaintiff's evidence), *trans. denied*. Thus, the small-claims court did not improperly shift the burden of proof to the apartment complex by giving it the opportunity to present evidence which it had hoped would disprove Watson's and Dotson's evidence.

[12] Moreover, nothing in the record even suggests that the small-claims court acted in a partial or biased manner.

> The law presumes that a trial judge is unbiased. To overcome that presumption, the party asserting bias must establish that the trial judge has a personal prejudice for or against a party. Clear bias or prejudice exists only where there is an undisputed claim or the judge has expressed an opinion on the merits of the controversy before him or her. Adverse rulings and findings by the trial judge do not constitute bias per se. Instead, prejudice must be shown by the judge's trial conduct; it cannot be inferred from his or her subjective views. Said differently, a party must show that the trial judge's action and demeanor crossed the barrier of impartiality and prejudiced that party's case.

Richardson v. Richardson, 34 N.E.3d 696, 703–04 (Ind. Ct. App. 2015) (internal brackets, citations, and quotations omitted). In this case, the record demonstrates that the small-claims court treated the parties the same in that both were able to make their arguments before the court. Contrary to the apartment complex's claim, the small-claims court did not act as an advocate for Watson and Dotson. The fact that the small-claims court ultimately found Watson and Dotson to be more credible than the representative for the apartment complex does not mean that the court was partial or biased against it.

II. Challenge to Denial of Alternative Request for Relief

[13] The apartment complex last contends that the small-claims court committed reversible error by denying its alternative request for the court to amend its judgment to include factual findings. The apartment complex did not request that the small-claims court enter findings or conclusions at any point prior to its entry of judgment in favor of Watson and Dotson. It merely requested, as an alternative to its motion to correct error, that the small-claims court amend its prior judgment to include findings of fact and conclusions thereon.

[14] Regardless of whether the apartment complex's request for findings pursuant to Indiana Trial Rule 52 could be considered timely, the Indiana Supreme Court, in affirming a prior denial of a request for Trial Rule 52 findings by a small-claims court, has held as follows:

> Small claims court is intended to be a place where such formality is not the order of the day. Indiana Small Claims Rule 8(A) embodies this policy by declaring: "The trial shall be informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law, and shall not be bound by the statutory provisions or rules of practice, procedure, pleadings or evidence...." Similar informality extends to the written entries memorializing small claims decisions. We exempt the judgments issued in small claims courts from the requirements prevailing in other civil cases. Trial Rule 58(B), which spells out the contents of judgments, especially declares that it applies "[e]xcept in small claims cases." Instead, the Small Claims Rules require only that "[a]ll judgments shall be reduced to writing signed by the court, dated, recorded verbatim in the Record of Judgments and Orders, and entered by the clerk in the small claims judgment docket. Judgment shall be subject to review as prescribed by relevant Indiana rules and statutes." S.C.R. 11(A).
>
> The formal entry of findings of fact and conclusions of law is contrary to the policy enunciated in Small Claims Rules 8 and 11. Small claims courts and the small claims divisions of general jurisdiction courts are intended to be places where justice may be dispensed inexpensively and promptly, and indeed, Indiana's courts bring nearly 250,000 such cases to final judgment each year. Parties … who seek more formal litigation have a good alternative at their disposal—filing their claim on the plenary docket.

Bowman v. Kitchel, 644 N.E.2d 878, 879 (Ind. 1995). The small-claims court, therefore, did not err in refusing the apartment complex's request for Trial Rule 52 findings.

[15] The judgment of the small-claims court is affirmed.

Vaidik, J., concurs.

Brown, J., concurs in result with opinion.

Brown, Judge, concurring in result.

[16] I concur with the result reached by the majority but write separately to note that The Monroe Apartments does not develop an argument that the damages awarded for emotional distress were improper. In their Notice of Claim, the tenants referenced "emotional distress," and at the hearing, the tenants and the attorney for The Monroe Apartments referred to "emotional distress" or "emotional damage." *See* Transcript Volume II at 6, 13, 24, 26, 57. It does not appear that there was a discussion of the type of "emotional distress," and the court did not discuss emotional distress in its order. At the bench trial, Watson stated that the amount of the security deposit was "[$]859, and the rest [of the $3,500] is for emotional distress, being left homeless, not having a job, and having nowhere to go." *Id.* at 24-25.

[17] The Monroe Apartments mentioned "emotional distress" only once in the argument section of its brief, Appellant's Brief at 13, did not specify the type of emotional distress the tenants claimed, and did not develop a cogent argument. Accordingly, The Monroe Apartments has waived any such argument. *See Young v. Butts*, 685 N.E.2d 147, 151 (Ind. Ct. App. 1997) ("A court which must search the record and make up its own arguments because a party has not adequately presented them runs the risk of becoming an advocate rather than an adjudicator."); Ind. Appellate Rule 46(A)(8) (providing that "[t]he argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning" and "[e]ach contention must be supported by citations to

the authorities, statutes, and the Appendix or parts of the Record on Appeal relied on, in accordance with Rule 22").