

STATE OF VERMONT

SUPERIOR COURT
Windham Unit

CIVIL DIVISION
Docket No. 22-CV-03949

DALE JOY
Plaintiff–Appellant

on appeal from

v.

Small Claims
Docket No. 21-SC-02104

VICTORIA LLOYD, GUARDIAN
on behalf of **SHAWN HOLDEN**
Defendant–Appellee

DECISION ON APPEAL

Dale Joy filed an appeal from an October 17, 2022 decision in a small claims case following a hearing held on September 19, 2022. This is a ruling on the appeal.

Ms. Joy filed the small claims case seeking reimbursement from the guardianship estate of a relative, Shawn Holden, for amounts she spent on his behalf during a period when she was providing him with assistance for managing his personal affairs and home and residence just prior to the establishment of the guardianship. The Defendant is the duly appointed Guardian, Victoria Lloyd. Ms. Joy claimed she was owed \$1,514.77. The court issued a written decision and judgment for \$150.00. Appellee Lloyd did not file a cross-appeal.

An appeal from a small claims judgment is heard and decided “based on the record made in the small claims court.” 12 V.S.A. § 5538. The “appeal is limited to questions of law.” Vermont Rules of Small Claims Procedure, Rule 10(d). If the small claims court has applied the correct law, this court will affirm its “conclusions if they are reasonably supported by the findings.” *Maciejko v. Lunenburg Fire Dist. No. 2*, 171 Vt. 542, 543 (2000) (mem.). In turn, the findings of fact must be supported by the evidence, *Brandon v. Richmond*, 144 Vt. 496, 498 (1984), and such findings “must be construed, where possible, to support the judgment,” *Kopelman v. Schwag*, 145 Vt. 212, 214 (1984). However, where the small claims court “did not address an issue which . . . could change the result, a remand will be ordered.” *Id.* The court’s review of the small claims court’s legal conclusions, however, is “non-deferential and plenary.” *Maciejko*, 171 Vt. at 543 (quoting *N.A.S. Holdings, Inc. v. Pafundi*, 169 Vt. 437, 439 (1999)).

Both parties represented themselves in the case before the small claims court. The court has listened to the recording of the small claims hearing and reviewed the entire record of the original small claims case as well as the record of this appeal case.

Procedural and Jurisdictional Rulings

Appellee Victoria Lloyd, Guardian on behalf of Shawn Holden, submitted an Appellate Brief on January 20, 2023 stating that it was submitted pursuant to Rule 72 of the Rules of

Probate Procedure and 12 V.S.A. §2553. The case below was not a probate proceeding, but a small claims case filed and heard pursuant to Chapter 187 of Title 12. The case is before this court as an appeal from the decision of the small claims court. Appeals are governed by 12 V.S.A. § 5538 and Rule 10 of the Rules of Small Claims Procedure. Although the rule and statute cited by Ms. Lloyd are inapplicable, the court has reviewed the Appellate Brief she filed in order to have the benefit of its content to the extent it addresses issues in this case. The Brief includes factual allegations that were not admitted as evidence at the small claims hearing, much of it apparently from different proceedings in probate court. Obviously, Ms. Joy has had no opportunity to address the inclusion or applicability of such material to the case. This court has disregarded such material for purposes of this case as it was not admitted into evidence in the small claims hearing or considered by the small claims judge. As stated above, an appeal is decided only based on the record in the small claims court.

The court case file of the small claims case lists Dale Joy as Plaintiff and Victoria Lloyd as Defendant. Shortly before the scheduled hearing in small claims court, Ms. Lloyd filed a Motion to Dismiss seeking dismissal on the grounds that the Plaintiff had failed to correctly name the Defendant, as the suit should not have been against her personally but against the guardianship estate of Shawn Holden for whom she was guardian. Judge Kainen issued an Entry Order in which he denied dismissal and ruled that the hearing would go forward but noted that the "party defendant should be: Victoria Lloyd in her official capacity as guardian for Shawn Holden." He reaffirmed this orally at the hearing and again in the first paragraph of the Findings, Conclusions, and Judgment issued October 17, 2022. It is noted that Plaintiff Dale Joy's original complaint was filed against "Victoria Lloyd, Temporary Guardian." (By the time of the hearing, Ms. Lloyd had become the permanent guardian.)

Ms. Joy's use of that title in the caption of her original complaint shows that she was correctly bringing a claim against Ms. Lloyd not in her personal capacity but in her capacity as the guardian of Shawn Holden. This is exactly what is required by Vermont Rule of Civil Procedure 17. Moreover, the text of the complaint shows that she was seeking reimbursement from Ms. Lloyd as guardian responsible for finances of Shawn Holden, and not in her personal capacity. Ms. Joy had no control over how the case was entered into the court computer record. Judge Kainen clarified the Defendant's status in order that the record not show a claim or judgment against Ms. Lloyd in her personal capacity, and this was consistent with the content of the complaint. There was no error in the denial of Ms. Lloyd's Motion to Dismiss.

On September 26, 2022, shortly *after* September 19, 2022 which is when the hearing was held in small claims court, Ms. Joy filed a Motion in which she sought to withdraw the case and "move to open claim in Probate against Shawn E. Holden under guardianship of Victoria Lloyd." This motion was denied by Judge Kainen on October 15, 2017, the same day he issued his Findings, Conclusions, and Judgment. He noted that while the case could have been filed as a claim against the guardianship estate in the Probate Division, that was not how it was filed. He denied the motion and decided the case based on the hearing already held.

The Notice of Appeal filed by Appellant Dale Joy on November 9, 2022 is titled "Motion to Appeal Judge's Decision and to Have This Case Moved to the Probate Court Where it Belongs." This appears to appeal both (1) the decision itself and (2) the denial of her motion to

withdraw the case and move it to Probate Court. It is clear that the original case was filed as a small claims case and not in the Probate Division where the guardianship estate is being administered. The case is before this court as an appeal from the decision of the small claims court. There was no error in denying the Motion to allow withdrawal of the case in small claims court and to move it to the probate court. The Motion to do so was filed AFTER a duly noticed hearing had already been held at which the opposing party had appeared and defended the claim. It would have been a waste of resources and time of both the court and Ms. Lloyd to disregard the hearing already held and start the process all over again in the Probate Division. It was too late for Ms. Joy to withdraw the case for the purpose of refile in a different court. As Judge Kainen noted, it could have been originally filed in the probate court, but was instead filed as a small claims case, and he had already heard the evidence. Neither the small claims court nor this appellate court has the authority to transfer a case filed as a small claims case to the Probate Division. Ms. Joy's appeal on this issue is denied.

Appellee Guardian Lloyd argues, beginning on page 9 of her Brief, that the small claims case should not have been heard by the small claims court because there were related proceedings that were ongoing in the guardianship case in the Probate Division. The Answer to the original Small Claims Complaint did not allege that there was a claim on the same subject matter in the Probate Division. The Motion to Dismiss filed by Guardian Lloyd shortly before the hearing was based on an allegation that Ms. Lloyd had been sued in her personal capacity rather than as Guardian; it did not allege that there was a claim on the same subject matter in the Probate Division. The record does not show that at any time the court was informed that an identical claim was being addressed in the Probate Division, nor is there any indication that it was. As Judge Kainen noted, Ms. Joy's specific claim could have been filed in either the probate case or the small claims court. It was filed in the small claims court, which had proper jurisdiction and decided the claim. Under these circumstances, the cases cited by Ms. Lloyd in her brief do not support her argument that the court lacked subject matter jurisdiction to address the claim.

Appellee Lloyd has filed a request for a hearing on the appeal or issuance of judgment. Judgment cannot be issued until the disposition of the issues on appeal is complete. The court declines to hear oral argument, as the record of both the small claims case and the appeal case, together with the audio recording of the hearing, provide a sufficient basis for ruling.

This court proceeds to address Ms. Joy's appeal of the merits of the decision.

Review of the Law as Applied to the Evidence

Shawn Holden sustained a traumatic brain injury in an accident in 2013. He received a settlement in 2015 with the funds administered by a trustee in a special needs trust. He also has multiple sclerosis, which may have had a progressive effect on his mental abilities. He was living independently in a mobile home owned by the trust, which also paid many of his expenses, during the relevant period. He also received \$1000 per month over which he had control. Ms. Joy found him living in squalor and using drugs. She made an arrangement with him to help him and he would pay her back out of the monthly funds he received personally. She took on a number of tasks to help him stop using drugs and improve his property and conditions of daily life. She

alleges that she and Shawn had an agreement, which was carried out over a period of time, that she was reimbursed for the funds she spent for his welfare out of the money he received personally. This took place prior to the establishment of the guardianship. She alleges that Ms. Lloyd, prior to becoming guardian, knew about this arrangement, but when she took over Shawn's finances as guardian, declined to repay Ms. Joy for expenses paid prior to the establishment of the guardianship and not yet reimbursed.

Ms. Joy bases her claim on the agreement she made with Shawn Holden. Judge Kainen ruled that Ms. Joy did not prove a contract because the evidence did not support a finding that Mr. Holden had the capacity to contract. Judge Kainen correctly applied the law of contract: a contract is not enforceable against a person unless that person had the mental capacity to agree to the terms of the alleged contract. The evidence presented from both parties supports Judge Kainen's conclusion that Shawn did not have the mental capacity to form the contract upon which Ms. Joy seeks to rely. While he could handle some personal spending money for incidentals, he could not handle his overall financial affairs on his own and needed significant assistance in managing his home and property. Indeed, that was the reason that Ms. Joy provided him with assistance until a guardian was appointed.

Judge Kainen concluded that although Ms. Joy could not rely on an enforceable contract, the legal principle of "implied contract, unjust enrichment or quantum meruit" allows for compensation where it would be unjust not to do so based on benefits provided. He then proceeded to analyze some of the categories of items for which Ms. Joy was claiming reimbursement. This was a correct application of the law, for to the extent Ms. Joy used her personal funds to benefit Mr. Holden and not herself, the law provides for recovery.

Exhibit 1 was a 28 page document consisting of photocopies of receipts for the claimed expenditures. Many are in very small amounts, and the purpose of each is not clear on the face of the receipt. It is a difficult document to understand. The court took some testimony from Ms. Joy and Ms. Lloyd about the purpose for some of the general categories of expenditures but did not review specific receipts or seek evidence from Ms. Joy about what they were for. Without asking Ms. Joy to support each of the items with testimony, he left the hearing open for Ms. Lloyd to file a follow-up response on some of the items, which she did not do on time.¹

In the decision, he addressed some of the claims. He acknowledged that Ms. Joy had purchased a lawnmower for \$300 which she had used to cut the grass at Mr. Holden's home for his benefit. However, Mr. Holden could no longer use it as he had been moved elsewhere, and it was in Ms. Joy's possession and now worth \$500. Judge Kainen ruled that she had the benefit of it and could sell it to be made whole. He ruled that the tools she had bought to work on his property could not be used by him, that she had possession of them, and that she had not proved a benefit to the guardianship estate. He ruled that she was entitled to keep and dispose of them rather than be reimbursed for them. He ruled that she could be reimbursed for some personal care incidentals that benefitted Mr. Holden and determined without reference to specific items that a just amount of reimbursement was \$150.

¹ While she filed an "Answer to Complaint" on November 7, 2022 that appears to be for the purpose, this was filed out of time after the court had already issued its decision. It also purports to file additional evidentiary material. It was not considered by the small claims court below, and is not considered by this court.

The largest single item within Ms. Joy's claim for over \$1,500 was for a security system that Ms. Joy had installed in Mr. Holden's mobile home for the purpose of surveillance to rid his home of drug addicts who exploited him by staying at his home and getting him to buy drugs. The unreimbursed portion was alleged to be around \$400 although the record is not clear on the exact amount. This item is mentioned in the Findings, Conclusions, and Judgment, page 2, as follows: "She [Ms. Joy] bought a security system and added the monthly fee to his Xfinity account. His monthly cable fee was \$100 per month. The security system added either \$100 or \$160 to his monthly cost. . . . The security system Ms. Joy got for Mr. Holden significantly increased his monthly expenses. . . ."

The evidence was undisputed that the camera system was purchased by Ms. Joy and permanently installed in Mr. Holden's mobile home, that Mr. Holden had gotten off drugs, and that when Mr. Holden was removed to a different living situation, the camera surveillance system remained in the mobile home, which was an asset of his special needs trust. Thus there was some evidence that it represented both personal and financial benefit to Mr. Holden. Ms. Lloyd testified that service fees had increased his monthly expenses and implied that Ms. Joy had failed to consolidate the expense with an existing account, thus suggesting an unreasonable increase in expenses. However, the evidence was at a generalized level. There was no specific evidence about an amount of such increase or its impact on Mr. Holden's overall wellbeing or assets. The evidence that it resulted in financial loss is sketchy, and there was no finding of waste or negligence on the part of Ms. Joy with respect to the service account. Any loss of benefit based on poor account management is not quantified. In Ms. Lloyd's Brief, she argues that Ms. Joy should not be awarded anything based on unjust enrichment because she had engaged in "waste and exploitation" of Mr. Holden's assets. She brings in factual allegations that were not evidence before the small claims court but were issues in probate proceedings. Such factual allegations were not proper evidence before the small claims court, could not be considered by the small claims court, and cannot be considered by this court.

This court concludes that the small claims court did not sufficiently address whether or not Ms. Joy had proved or failed to prove unjust enrichment by the purchase and maintenance of the security surveillance system as well as some of the other items in Exhibit 1. As set forth by the Vermont Supreme Court in *Ferris-Prabhu v. Dave & Son, Inc.*, 142 Vt. 479 (1983), the judge in small claims court is responsible for conducting the examination of witnesses, and has the obligation to examine a plaintiff in such a way as to facilitate proof of a possibly meritorious claim. *Id.* If the court fails to do so, the case may be remanded to prevent a failure of justice. *Id.* As to the security system, this court on appeal reaches no conclusion except that there *may* be a meritorious claim. As to it and other items represented by receipts, the judge has the obligation to make inquiry that is sufficient to give a claimant the opportunity to offer testimony to seek to prove the claim. *Id.*

Thus, the case is remanded to the small claims court to reopen the hearing and provide Ms. Joy with an opportunity to present testimonial evidence in support of the security system and the other items reflected in the receipts included in Exhibit 1 in accordance with the standards set forth in *Ferris-Prabhu v. Dave & Son, Inc.* It appears that the claims related to the lawnmower and tools were sufficiently explored during the hearing, so evidence and findings with respect to

those items need not be revisited, although Judge Kainen in the exercise of his discretion may choose to do so if he wishes. Otherwise, Ms. Joy is entitled to be questioned by the judge in a manner that would allow her to prove her claims, if she can, as to the security system and other items included in the receipts in Exhibit 1. Of course, the remand also includes providing the opportunity for responsive testimony from Ms. Lloyd.

Order

Based on the foregoing,

1. The appeal is *denied* with respect to Appellant Joy's request to move the case to the Probate Division,
2. Appellee Lloyd's "Praecipe for Hearing on Appeal or for Entry of Judgment on Briefs" (Motion # 1) is *denied*; and
3. The case is *remanded* to the small claims court for the hearing in docket 21-SC-02104 to be reopened for further evidence in accordance with the decision set forth above.

Electronically signed May 18, 2023 pursuant to V.R.E.F. 9 (d).



Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned