

STATE OF MAINE
LINCOLN, SS.

SUPERIOR COURT
Civil Action
Docket No. AP-2017-03

MAINE COAST CHIMNEY,)
Plaintiff/ Appellee.,)
)
)
v.)
)
)
LINDA EWEN,)
Defendant/ Appellant.)

ORDER ON APPEAL

The Defendant appeals from a decision of the District Court (Raimondi, J.) entering judgment for the Plaintiff on his Statement of Claim made after an evidentiary hearing on March 22, 2017.

When the Superior Court considers appeals from District Court, the court must apply the same standards of review that are applied on appeals to the Law Court: findings of fact are reviewed for clear error; discretionary issues are reviewed for abuse of discretion; and questions of law are reviewed *de novo*. The Superior Court's review of the facts is limited to the record from the District Court – new evidence may not be presented or considered on appeal.

After review of the trial court record and the briefs of the parties, the court finds that the District Court made no clear error of fact or errors of law. The record reflects that there was sufficient evidence to support the District Court's finding that the Defendant is liable to the Plaintiff in the amount of \$3,205.69 and costs of \$61.80.

From the review of the record, it is apparent that the District Court relied on the testimony of the Plaintiff in making its determination in the case and did not credit the testimony of the Defendant. A fact-finder is entitled to make such determinations of weight and credibility and an appellant court cannot substitute its own judgment on such matters for that of the trial court.

In her Motion for Reconsideration filed with the District Court and in her submission in this appeal, the Defendant submitted new evidence that was not submitted at the evidentiary hearing conducted by the District Court. It would have been inappropriate for the District Court, and would be inappropriate for this court, to consider this new evidence submitted after the evidentiary hearing in this matter¹.

¹ In her submission, the Defendant refers to an arbitration conducted on August 17, 2016. It is apparent from the transcript of the March 22, 2017 evidentiary hearing and the District Court docket that this was actually a small claims mediation conducted in a previous small claims

The decision of the District Court is therefore AFFIRMED.

Dated: July 12, 2017



JUSTICE, MAINE SUPERIOR COURT

matter involving the parties to this action. That matter was dismissed without prejudice. There is no evidence that arbitration was conducted in this matter.

Date Filed: 4/21/17

Action: 76G

Date of Entry: 4/24/27

PLAINTIFF:
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Docket No. AP- 2017-3
Lincoln County

DEFENDANT:
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