

STATE OF MICHIGAN
COURT OF APPEALS

BROCK ALDEN CAVINS,

Plaintiff-Appellant,

v

CITY OF JACKSON,

Defendant-Appellee.

UNPUBLISHED

August 4, 1998

No. 202428

Jackson Circuit Court

LC No. 97-078672 CZ

Before: Murphy, P.J., and Young, Jr. and M. R. Smith*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of his suit to preclude forfeiture of certain personal property seized by law enforcement authorities at the time of plaintiff's arrest for a drug offense. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

MCL 333.7523(1)(c); MSA 14.15(7523)(1)(c) allows any person claiming an interest in seized property to file a notice of claim with, and to give a bond to, the applicable local unit of government within twenty days after receiving notice from the local unit of government. See also *In re Forfeiture of 12-Gauge Shotgun*, 204 Mich App 133, 134; 514 NW2d 468 (1994).

Plaintiff correctly points out that, as a general rule, when the word "day" is employed it means a calendar day that includes the entire day from midnight to midnight. *State v Sheets*, 338 NW2d 886 (Iowa, 1983). Nevertheless, viewing the statutory provision in its entirety, *Weems v Chrysler Corp*, 448 Mich 679, 699-700; 533 NW2d 287 (1995), the Legislature employed limiting language within the provision that clearly indicates the Legislature's intent that the filing of a claim and the posting of a bond must be performed during the regular business hours of the applicable unit of government. Specifically, § 7523(1)(c) provides that the person claiming an interest in the property must file a claim with, and provide a bond to, the applicable local unit of government. It may be presumed that, when the Legislature enacted § 7523, the Legislature knew that local units of government maintain certain regular business hours.

* Circuit judge, sitting on the Court of Appeals by assignment.

Nevertheless, plaintiff claims that his appearance in the city clerk's office on November 22, 1996, and his attempt at that time to file a claim of interest and a bond, was timely for purposes of § 7523 because November 22 constituted "the 20th day since he received Notice of Intent to Forfeit after the end of the business day of November 1, 1996." For plaintiff's argument to be meritorious, the fact that he received the notice after business hours on November 1 would have to render the notice ineffective until the business hours of November 2. If giving notice after business hours on November 1 was tantamount to giving notice on November 2, then November 22 was the 20th day -- November 2, the date notice was given, not being included for purposes of calculating the 20-day period. MCR 1.108(1). We find no merit in plaintiff's argument. Pursuant to MCR 1.108(1), plaintiff was given the benefit of the exclusion of the day notice was given in calculating the twenty-day time period, and plaintiff still failed to file a claim of interest before the expiration of that time period. Accordingly, the trial court properly granted summary disposition in favor of defendant.

Affirmed.

/s/ William B. Murphy
/s/ Robert P. Young, Jr.
/s/ Michael R. Smith