IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

MARK A. HENDRIX, Respondent, v. DAVID W. DEVIN, "JANE DOE" DEVIN, dba DWD & ASSOCIATE PROPERTY MANAGEMENT, Appellants.	No. 41444-9-II UNPUBLISHED OPINION

Hunt, J.—David Devin appeals from the superior court's order striking his request for a trial de novo following a mandatory arbitration award against him in favor of Mark Hendrix. He argues that the trial court erred in ruling that his sufficient proof of service of his Note for Trial Setting did not meet MAR 7.1(a) requirements. We affirm.

FACTS

On May 12, 2010, an arbitrator entered a mandatory arbitration award in favor of Mark Hendrix against David Devin. On May 25, Devin, acting pro se, filed a Request for Trial De Novo and a Note for Trial Setting. Because Devin was out of the country, his former counsel e-mailed those documents to Hendrix's lawyers on May 24.

Hendrix moved to strike Devin's request for a trial de novo, arguing that Devin had failed to comply with MAR 7.1(a) because he had not filed "'proof that a copy [of the request] has been

served upon all other parties appearing in the case.'" Clerk's Papers (CP) at 7 (emphasis omitted) (quoting MAR 7.1(a)). Devin responded that he had complied with MAR 7.1(a) because the Note for Trial Setting listed Hendrix's attorneys in a part of the form that stated, "List the name, address and phone number of all attorneys or parties who were provided notice." CP at 4.

The trial court granted Hendrix's motion, struck Devin's request for trial de novo and entered judgment on the arbitration award. Devin appeals.[1]

ANALYSIS

Devin argues that his Note for Trial Setting, which he filed with his Request for Trial De Novo and which states that Hendrix's attorneys had been "provided notice," was sufficient proof of service under MAR 7.1(a). CP at 5. *Terry v. City of Tacoma*, 109 Wn. App. 448, 458, 36 P.3d 553 (2001), *review denied*, 146 Wn.2d 1012 (2002) (received stamp from attorney's office constitutes "some evidence" of the manner of service and satisfies MAR 7.1(a)). This argument fails.

We review de novo the trial court's decision to strike a request for a trial de novo following a mandatory arbitration award. *Nevers v. Fireside, Inc.*, 133 Wn.2d 804, 809, 947 P.2d 721 (1997). Contrary to Devin's argument, the proof of service required by MAR 7.1(a) must contain "an indication of time, place, and manner of service." *Terry*, 109 Wn. App. at 454-55 (citing *Sunderland v. Allstate Indem. Co.*, 100 Wn. App. 324, 329, 995 P.2d 614, *review denied*, 141 Wn.2d 1031 (2000) (citing *Carpenter v. Elway*, 97 Wn. App. 977, 989, 988 P.2d 1009

[1] A commissioner of this court initially considered Devin's appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

(1999), *review denied*, 141 Wn.2d 1005 (2000))). Devin's Note for Trial Setting contains no indication of the time, place or manner of service of his Request for Trial De Novo. Thus, it does not satisfy MAR 7.1(a)'s requirement for proof that he had served a copy of his Request for Trial De Novo on Hendrix.

Accordingly, we affirm the trial court's striking of Devin's Request for Trial De Novo.

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

Hunt, J.

We concur:

Van Deren, J.

Penoyar, C.J.