

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

TAMIKA RAMSEY)
)
 Defendant Below-)
 Appellant)
)
 v.)
)
KATRINA M. RUFUS)
)
 Plaintiff Below-)
 Appellee.)

C.A. No. 03A-09-005 HdR

Submitted: January 21, 2004

Decided: April 13, 2004

Katrina M. Rufus, Milford, Delaware, *pro se*.

Tamika Ramsey, Milford, Delaware, *pro se*.

OPINION

UPON APPEAL FROM THE COURT OF COMMON PLEAS

AFFIRMED

Ridgely, President Judge

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In this debt action, Defendant Tamika Ramsey appeals a decision of the Court of Common Pleas rendered in favor of Plaintiff Katrina M. Rufus. Because the record indicates the trial court's decision was the product of an orderly and logical deductive process and is supported by sufficient evidence, the judgment of the Court of Common Pleas is affirmed.

I.

Ms. Ramsey is the state-appointed childcare provider for Ms. Rufus' s three-year-old son. Pursuant to a Subsidized Child Care Client Agreement (“Childcare Agreement”) entered into with Philip Krauss, a social worker at the state Division of Social Services, Ms. Rufus was responsible for paying part of the cost of Ms. Ramsey' s services, the amount of which the parties dispute.¹ Claiming she mistakenly overpaid Ms. Ramsey over a period of several weeks, Ms. Rufus filed a debt action in Justice of the Peace Court Sixteen, seeking to recover the alleged overpayment.

After trial in November 2002, the Justice of the Peace Court entered judgment in favor of Ms. Rufus in the amount of \$362, plus costs of the proceeding.² Ms.

¹ See Delaware Health and Social Services, *Subsidized Child Care Client Agreement*, D.I. 4, at 5-6 (no page numbers in original). The former agreement provides for a daily estimated fee of \$7.34, while a superceding agreement increased the amount to \$8.56.

² See *Rufus v. Ramsey*, C.A. No. J0209019016 (J.P. Nov. 25, 2002), at D.I. 1.

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Ramsey then filed an appeal in the Court of Common Pleas, which, after Ms. Rufus failed to appear at a pretrial conference, entered judgment by default in favor of Ms. Ramsey.³ The judgment was subsequently vacated by the same court, and trial on the merits was held in August 2003. In its August 28 Order, the trial court found that “ [Ms. Rufus] established at trial through her testimony and the testimony of [witness] Chemaine Johnson-Moore that she overpaid the defendant, a daycare provider, by the sum of \$267.44.”⁴ Accordingly, the trial court entered judgment in favor of Ms. Rufus in that amount.

II.

Ms. Ramsey claims that she did not receive a fair hearing before the trial court. Specifically, she argues that because Mr. Krauss, who was allegedly subpoenaed to appear, was not present to testify on her behalf, she was unable to present all her evidence. Ms. Ramsey also asserts as false Ms. Rufus’ s claim that she did not receive sufficient notice for the initial trial date. Finally, Ms. Ramsey contends that she failed to recognize Ms. Rufus’ s overpayment because the latter falsified the amounts specified in the Childcare Agreement.

³ *Rufus v. Ramsey*, C.A. 02-12-0045 (C.C.P. July 2, 2003) (ORDER), at D.I. 10.

⁴ *Rufus v. Ramsey*, C.A. No. 02-12-0045 (C.C.P. Aug. 28, 2003) (ORDER), at D.I. 20.

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In response, Ms. Rufus claims that Ms. Ramsey had ample opportunity to present her case, noting that the latter testified on her own behalf and cross-examined Ms. Rufus' s witnesses. Ms. Rufus also contests Ms. Ramsey' s accusations that she altered any documents. Ms. Ramsey replies that she should not be responsible for the negligence of Ms. Rufus.

III.

An appeal from the Court of Common Pleas is reviewed on the record, without a trial de novo.⁵ If there is sufficient evidence to support the findings of the trial judge, the Superior Court sitting in its appellate capacity must affirm, unless the findings are “ clearly wrong.”⁶ In addition, the Superior Court:

. . . [has] the duty to review the sufficiency of the evidence and to test the propriety of the findings below. If such findings are sufficiently supported by the record and are the product of an orderly and logical deductive process, the Superior Court must accept them, even though independently it might have reached opposite conclusions.⁷

⁵ 10 *Del. C.* § 1326(c); *see also* SUPER. CT. CIV. R. 72(g) (“ Appeals shall be heard and determined by the Superior Court from the record of the proceedings below”).

⁶ *Levitt v. Bouvier*, 287 A.2d 671 (Del. 1972).

⁷ *State v. Cagle*, 332 A.2d 140, 142-143 (Del. 1974) (capitalization altered); *see also* *Young v. Saroukos*, 189 A.2d 437, 439 (Del. 1963) (“ It is well settled that this Court will not disturb such verdicts where there is competent evidence upon which the findings could reasonably be predicated.”); *Wilson v. First State Contr. Co.*, 2002 Del. Super. LEXIS 368 (echoing “orderly and logical deductive process” language).

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Thus, the Court may contradict the trial judge's findings only when it is "convinced that a mistake has been made which, in justice, must be corrected."⁸

Restitution exists as a remedy to unjust enrichment. Although this remedy often involves equitable considerations, "the law courts of this State have long awarded plaintiffs restitution in the form of a money judgment".⁹ Specifically, because the dispute between the parties here can be resolved by an adequate legal remedy – the payment of a specified sum of money in a debt dispute – the Court has jurisdiction over Ms. Ramsey's claim.¹⁰

The negligence of a payor in mistakenly compensating a payee, alone, is no bar to restitution of the sum paid.¹¹ However, where the mistake of fact was not shared by the payee, equitable principles may bar restitution.¹² In addition, where the payment has caused the payee to change her position, recovery of improperly

⁸ *Cagle*, 332 A.2d at 143.

⁹ *Clark v. Teeven Holding Co.*, 625 A.2d 869, 878 (Del. Ch. 1992) citing *Bellanca Corp. v. Bellanca*, 169 A.2d 620 (Del. 1961) and *Helmerich & Payne v. Colorado Interstate Gas Co.*, 187 A.2d 67 (Del. 1962).

¹⁰ *See In re Real Property of Wife, K*, 297 A.2d 424 (Del. Ch. 1972) (defining adequate legal remedy as one which is as complete, practical, and efficient to the ends of justice as remedy in equity).

¹¹ *Home Ins. Co. v. Honaker*, 480 A.2d 652, 654 (Del. 1984).

¹² *Id.*

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paid funds will be barred.¹³ But the burden of proving a change of circumstances or other inequities sufficient to bar restitution is on the payee.¹⁴

As to Ms. Ramsey's claims of unfairness at trial, she has presented unsubstantiated accusations of forgery and a generalized allegation of injustice. Her specific contention on appeal, that she was unable to present all her witnesses, is not supported by the record. To the contrary, Ms. Ramsey improperly sought to subpoena Mr. Krauss, who is based in Sussex county, through the Kent County sheriff's office.¹⁵ Furthermore, Ms. Ramsey admits she never paid the subpoena fee.¹⁶ Ms. Ramsey's claims of procedural unfairness have no merit.

The trial judge had the opportunity to observe the demeanor of the parties and witnesses, and make his own credibility assessment. Both parties were unaware of the overpayment at the time it was made. Additionally, as payee, Ms. Ramsey failed to point to any "change of circumstance or other inequit[y]" that would

¹³ *Insurance Co. of North America v. Dubroff*, 1984 Del. Ch. LEXIS 520 (finding that insured's reliance on expectation of payment under fire policy in repairing house may amount to change in position).

¹⁴ *Honaker*, 480 A.2d at 654.

¹⁵ *See* Declaration of Service, D.I. 17, at 4 (unnumbered pages in original).

¹⁶ *See* App. Br., D.I. 6, at 2 (unnumbered pages in original) ("I did receive a refund for that subpoena.").

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permit the trial judge to bar restitution.

IV.

The record indicates the trial court' s decision was the product of an orderly and logical deductive process and supported by sufficient evidence. There was no error of law. Accordingly, the decision of the Court of Common Pleas awarding \$267.44 to Ms. Rufus is ***AFFIRMED***.

IT IS SO ORDERED.

/s/ Henry duPont Ridgely

President Judge

ds

oc: Prothonotary

xc: Order distribution