

IN THE COURT OF APPEALS OF IOWA

No. 7-556 / 07-0242
Filed October 12, 2007

**IN THE INTEREST OF D.A.J.C.,
Minor Child,**

**D.A.J.C., Minor Child,
Appellant.**

Appeal from the Iowa District Court for Polk County, Carol S. Egly, Judge.

D.C. appeals the amount of victim restitution the juvenile court ordered him to pay for his delinquent act of third-degree criminal mischief. **AFFIRMED.**

Michael B. Oliver of Oliver Law Firm, Des Moines, and Karl Wolle, Des Moines, for appellant minor child.

Thomas J. Miller, Attorney General, Bruce Kempkes, Assistant Attorney General, John P. Sarcone, County Attorney, and Jon Anderson, Assistant County Attorney, for appellee State.

Considered by Mahan, P.J., and Miller and Vaitheswaran, JJ.

VAITHESWARAN, J.

D.C., a juvenile, agreed he committed the delinquent act of third-degree criminal mischief. He specifically admitted to vandalizing a two-story, four-bedroom rental property owned by Patrick Knueven and he agreed to be held responsible for some of the damage claimed by Knueven.

Knueven submitted a request for restitution in the amount of \$10,829.94. Iowa Code § 232.52(2)(a)(2) (2005) (dispositional order may include an amount of restitution “consisting of monetary payment . . . to the victim”). D.C. contested this amount as “beyond the scope of the damages caused by the Child in this matter.” He requested a restitution hearing. Following the hearing, the district court ordered restitution in the amount of \$3935.

On appeal, D.C. argues the court’s restitution order was excessive. He maintains “the majority of the damages” were caused by former tenants and not by his delinquent acts.

Our review is at law. *State v. Bonstetter*, 637 N.W.2d 161, 165 (Iowa 2001). The district court’s findings of fact have the effect of a special verdict. *State v. Watts*, 587 N.W.2d 750, 751 (Iowa 1998).

As noted, the district court significantly downgraded Knueven’s original restitution request. The court denied his claim for three months’ rent, stating the type of damage caused to the house “could have been restored within a month.” The court also accepted the lower of two rent figures proffered by Knueven. Finally, the court rejected Knueven’s request for compensation of his labor at \$50 per hour, finding the rate was an attempt to recover the unauthorized types of damages specified in section 910.1(3)

(stating restitution in the form of pecuniary damages includes all damages not paid by an insurer which a victim could recover against the offender in a civil action arising out of the same facts, except punitive damages and damages for pain and suffering). The court instead ordered Knueven's labor to be compensated at the rate of \$10 per hour.

The court recognized "there were some items in this matter that perhaps [D.C.] did not damage," but stated,

[W]hen someone commits a crime they have to understand they take the victim as they are, and Mr. Knueven is not required to sort out and figure things that he cannot do at this point, which is what might have been damaged by a previous tenant.

We conclude the district court did not err in applying the law. While Knueven admitted he did not know whether the prior tenant caused some of the damage, it is established that a restitution award may stand despite the absence of certainty on this issue, "particularly where the conduct of the wrongdoers has rendered it difficult to ascertain the damages suffered with the precision otherwise possible." *Watts*, 587 N.W.2d at 752 (quoting 22 Am. Jur. 2d *Damages* § 430, at 515-16 (1988)).

Additionally, the restitution amount the court settled on had "a reasonable basis in the evidence." *Id.*; *Bonstetter*, 637 N.W.2d at 165 (stating restitution order not excessive if it bears a reasonable relationship to the damage caused by the offender's criminal act). We find it unnecessary to detail that evidence except to note that the vandalism was extensive and not limited to a single area of the house.

We affirm the district court's restitution order.

AFFIRMED.