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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1524**

Renee G. Willour,
Respondent,

vs.

Laura Runstrom,
Defendant,

James Runstrom,
Appellant.

**Filed July 1, 2008
Reversed in part and remanded
Schellhas, Judge**

Carlton County District Court
File No. 09-CV-06-2026

Renee G. Willour, 3108 Co. Rd. 139, Barnum, MN 55707 (pro se respondent)

Thomas M. Skare, Skare Law Office, Inc., 1429 Cloquet Avenue, Cloquet, MN 55720
(for appellant)

Considered and decided by Toussaint, Chief Judge; Hudson, Judge; and Schellhas,
Judge.

UNPUBLISHED OPINION

SCHELLHAS, Judge

Appellant challenges a district court conclusion that a conciliation court judgment against him was unaffected by a jury verdict in his favor because he had not perfected

removal of the conciliation court matter to district court. Because the district court's findings about appellant's removal from conciliation court are inconsistent, the district court's conclusion is not supported by the findings, and we therefore reverse in part and remand.

FACTS

Respondent Renee Willour brought an action in conciliation court against Laura Runstrom and appellant James Runstrom, husband and wife, in connection with a car accident. In connection with this action, attorney Thomas Skare sent a letter, dated March 22, 2006, to the conciliation court judge stating that he had been retained to represent Laura Runstrom. The letter makes no mention of appellant, who made no appearance at the conciliation court hearings. The conciliation court awarded respondent a judgment against the Runstroms.

After judgment was entered against Laura Runstrom and appellant, attorney Skare filed a form entitled "Demand for Removal/Appeal From Conciliation Court to District Court and Affidavit of Good Faith." The case caption on the demand for removal lists appellant's name along with Laura Runstrom's name and contains language, stating "the appealing party is aggrieved by the judgment in Conciliation Court and hereby demands the removal of the above case." The demand to remove does not specifically identify "the appealing party." Attorney Skare signed the demand for removal without indication as to whether he represented only one of the named defendants or both of them.

Although appellant did not attend the proceedings in district court, pursuant to the demand for removal, discovery was conducted on behalf of both Laura Runstrom *and*

appellant under the district court's jurisdiction. Laura Runstrom *and* appellant moved the district court for leave to amend *their* answer and, in support of their motion, filed "Defendant Runstroms' Memorandum in Support of Motion to Amend and Interpose Answer." At a pretrial, the district court orally granted the Runstroms' motion and attorney Skare subsequently filed an "Answer & Counterclaim," signing it as "Attorney for Defendants."

The case was tried before a jury on March 12, 2007. Although the jury instructions included 4 *Minnesota Practice*, CIVJIG15.15 (2006)–Two or More Defendants–the district court only submitted to the jury the claims against and by Laura Runstrom. The jury found respondent 60% negligent and Laura Runstrom 40% negligent. On April 30, 2007, the district court filed an Order for Judgment that included findings of fact. The findings that relate to whether appellant perfected his demand for removal and/or defaulted are as follows:

1. Plaintiff Renee G. Willour commenced this action in conciliation court against Laura Runstrom and James Runstrom who are husband and wife.
2. That on March 22, 2006, Thomas M. Skare wrote a letter to the Court indicating that he was representing Laura Runstrom in this matter. Mr. Skare's letter did not indicate that he was representing James Runstrom and no Certificate of Representation with respect to Mr. Runstrom has been filed in this matter by Mr. Skare or anyone else.
3. Hearings were held in conciliation court on March 24, 2006 and April 28, 2006. James Runstrom did not appear at either hearing. Subsequently, on May 5, 2006, Plaintiff received a judgment against both Defendants for the sum of \$3,055.00.

4. On May 24, 2006, this matter was removed to District Court through a Demand for Removal/Appeal from District Court by attorney Skare on behalf of the *Defendants*.
5. Pursuant to Conciliation Court Rule 521, “[a]ny person aggrieved by an order for judgment entered in conciliation court after contested trial may remove the cause to district court for a trial de novo.” Although Laura Runstrom, as an aggrieved person, may remove the matter to district court the removal of her matter does not remove the matter to district court with respect to James Runstrom.
6. A jury trial was commenced on March 12, 2007. There was no appearance by Defendant James Runstrom and Mr. Skare informed the Court that he was only representing Defendant Laura Runstrom in this action.
7. The Court severed the cases of Laura Runstrom and James Runstrom and only the case between Renee Willour and Laura Runstrom was submitted to the jury.^[1]

(Emphasis added.) The district court awarded Laura Runstrom damages in the amount of \$240, and her costs and disbursement in the amount of \$898.84. As to appellant, the district court ordered that “[t]he conciliation court judgment of May 5, 2006 in favor of [respondent] and against [appellant] for the amount of \$3,055.00 remains in effect.” This appeal followed.

¹ In his brief, appellant states that the district court submitted only Laura Runstrom’s defense and counterclaims to the jury because it found appellant to be in default, apparently arguing that the default ruling was based on appellant’s failure to appear at trial. We have been provided no transcripts of the district court proceedings and nothing in the record before us constitutes evidence that the district court found appellant in default for failure to appear at trial or that the reason it severed appellant’s case from Laura Runstrom’s case was because of appellant’s default for failure to appear at trial.

DECISION

Appellant argues that the district court erred when it found that the case was removed to district court only as to Laura Runstrom and not as to him. On review of a civil judgment, we ask “whether the evidence sustains the findings of fact and whether such findings sustain the conclusions of law and the judgment.” *Gruenhagen v. Larson*, 310 Minn. 454, 458, 246 N.W.2d 565, 569 (1976). Findings of fact are reviewed for clear error and will not be disturbed if they are supported by reasonable evidence. *Fletcher v. St. Paul Pioneer Press*, 589 N.W.2d 96, 101 (Minn. 1999) (citing Minn. R. Civ. P. 52.01). Additionally, findings of fact will be reversed only if the reviewing court is left with a definite and firm conviction that a mistake has been made. *Gjovik v. Strobe*, 401 N.W.2d 664, 667 (Minn. 1987).

In this case, our concern is not that the findings lack support in the record but that they are inconsistent. Finding of Fact No. 4, which states that the “matter was removed to District Court . . . on behalf of the Defendants,” is inconsistent with Finding of Fact No. 5, which states that Laura Runstrom’s removal of the matter to district court “does not remove the matter to district court with respect to [appellant].” These are inconsistent because if the matter was removed as to both defendants then it was not removed only as to Laura Runstrom. We could read Finding of Fact No. 2, which states that attorney Skare advised the conciliation court that he represented only Laura Runstrom, and Finding of Fact No. 6, which states that at trial, attorney Skare advised the district court that he represented only Laura Runstrom, to mean that attorney Skare represented only Laura Runstrom throughout the proceedings. Based on such an interpretation, attorney

Skare would have lacked authority to remove the case to district court on behalf of appellant. Thus, the notice to remove, filed by attorney Skare on behalf of the “*Defendants*” would have effected removal only as to Laura Runstrom. But we do not read the findings in this way. Despite the fact that attorney Skare advised the district court that he did not represent appellant in conciliation court and did not represent him at trial, when attorney Skare filed the notice to remove, he represented to the district court in writing that he was removing the case on behalf of both defendants and the district court so found in Finding of Fact No. 4. Because the district court’s findings are ambiguous and do not explain why the court deemed the notice to remove to be effective only for Laura Runstrom, we conclude that the findings are inconsistent and we are left with a definite and firm conviction that the district court made a mistake in its findings.

If the district court had clearly found that appellant had not perfected his removal to district court, concluding therefore that it had no jurisdiction over appellant, its refusal to submit appellant’s case to the jury would be appropriate. *See* Minn. R. Gen. Pract. 521(d) (providing that a conciliation court judgment is vacated on removal only as to the parties to the removal). But, because the findings are inconsistent about whether removal on behalf of appellant was perfected, the findings do not sustain the district court’s conclusion that the conciliation court judgment remains effective against appellant. We reverse this conclusion and remand for further proceedings.

Reversed in part and remanded.