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STATE OF VERMONT
RUTLAND COUNTY

MAJESTIC CAR RENTAL GROUP,	)	**Rutland Superior Court**
	)	**Docket No. 403-6-09 Rdcv**
Plaintiff,	)	
	)	
v.	)	
	)	
JOHN CIOFFI, SR., and	)	
JOHN CIOFFI, JR.,	)	
	)	
Defendants	)	
	)	

DECISION ON SMALL CLAIMS APPEAL

This case came on before the Court on appellant Majestic Car Rental Group's Appeal, filed July 1, 2009. Appellant Majestic appeals the small claims Opinion and Order filed by the Honorable Marlene R. Burke on April 29, 2009. Appellees John Cioffi, Sr. and John Cioffi, Jr. filed a Memorandum on July 16, 2009. An appellate hearing was held on August 6, 2009.

Majestic Car Rental Group ("Majestic") appears *pro se*, represented by its Vice-President, Maura Fitzgerald. John Cioffi, Sr. and John Cioffi, Jr. are represented by R. Joseph O'Rourke, Esq.

Background

On January 6, 2008, John Cioffi Sr. rented a car for his son, John Cioffi Jr., from Majestic Care Rental ("Majestic") located in Rutland. This was to be a five-month rental. Mr. Cioffi Sr. signed the lease for his son, as John Cioffi Jr. was 23 years old and Majestic required one to be 25 years old to sign a rental agreement. Majestic Car Rental is located directly across from the Cioffi residence on Horton Street.

The back of the rental agreement stated "that the vehicle will be returned in the same condition as received and that any damage to the vehicle will be paid for by the person who signed the lease agreement."

On April 24, 2008, the original vehicle, a 2008 Chevy Cobalt, was returned to the Majestic and swapped out for a 2007 Chevy Cobalt for the remainder of the rental. This vehicle was returned to Majestic on May 6, 2008. John Cioffi Jr. returned the car. It was dirty at the time of the return. According to John Cioffi Jr., he was unaware of any damage to the car and when he returned the car there was no comment by Majestic as to any damage to the vehicle. Mr. Cioffi Sr. had driven the car multiple times and knew of no incident of damage.

On May 15, 2008, Mr. Cioffi Sr. received a letter from Majestic that upon return of the vehicle (no date of return was given in the letter) it was noted that there was damage to the rear bumper and inquired of Mr. Cioffi Sr. how he wanted to pay for it.

On May 21, 2008, another letter was received by Mr. Cioffi Sr. stating that his failure to respond to the first letter had caused to the matter to put into the hands of a collection agency. According to the letter, Majestic wanted to bill his credit card. He was never given the opportunity to view the damage to the car.

Celina Ellison, the manager of the Rutland branch of Majestic, stated that she received a phone call from Peter Van Cort, a sales employee who accepted the car on May 6, 2009. Mr. Van Cort told her that he performed a walk around of the vehicle while Mr. Cioffi Sr. was there, and, although it was dirty, he saw a gash from the quarter panel to the bumper. Mr. Van Cort then stated that he asked Mr. Cioffi Jr. how he was

going to pay for the damage and Mr. Cioffi Jr. stated that he did not know how it happened.

Mr. Cioffi Sr. testified that Majestic did not call him at the time they said they saw damage on the vehicle's bumper nor did they ask him to come and look at any alleged damage to the vehicle, even though he lived directly across the street from the Majestic rental branch office and was the person who signed the rental agreement. Majestic did not keep the car on the lot to view the damage, if indeed there was any. Ms. Ellison stated that she called Mr. Cioffi's residence and left a message on his phone. Mr. Cioffi Sr. testified that the first he knew of any possible damage to the vehicle was when he received the letter dated May 15, 2008. Mr. Cioffi Jr. stated that the first he knew of any damage to the vehicle was when his father called him about the letter on May 15, 2008. The vehicle was taken to Charlotte, Vermont on or about May 12, 2008, and fixed at a cost of $349.84.

Ms. Ellison testified that it was her handwriting on the lease document, which stateed "scrape on Pass Side." Mr. Cioffi Sr. was not given a copy of this document with that notation on it in May 2008 and did not see the notation until after litigation started.

The court found in its Conclusions of Law that Majestic may have found damage to the vehicle, but did not keep the car on lot to show the damage to Mr. Cioffi Sr. even though the car was not fixed until May 12, 2008. Majestic also did not call Mr. Cioffi Sr. to view the damage even though he lived directly across the street. The court found that allowing Mr. Cioffi Sr. the opportunity to inspect the vehicle as proof of damages would have been a reasonable business practice. Majestic's claim was denied.

On appeal, Majestic argues that court did not give proper weight to its witnesses. Majestic also argues that the court erred by reading in "reasonable business practices" as an additional term to the contract.

Discussion

On appeal of a small claims court decision, this Court's standard of review is one of high deference. The Court is limited to questions of law, V.R.S.C.P. 10(d), and must be mindful that small claims court exists "to secure the simple, informal, and inexpensive disposition" of claims. V.R.S.C.P. 1. Small claims court findings "must be construed, where possible, to support the judgment" and the procedural informality of small claims does not authorize an appellate court to make its own substantive findings. *Kopelman v. Schwag*, 145 Vt. 212, 214 (1984). Small claims court findings, however, must be supported by the evidence. *Brandon v. Richmond*, 144 Vt. 496, 498 (1984).

First, the Court will address appellant Majestic's argument that the small claims court did not afford the proper weight to the evidence. Two employees testified on behalf of appellant Majestic. Appellees testified on their own behalf. The trial court is in the best position to determine the credibility of witnesses, and therefore the court's decision will not be overturned simply because there was conflicting evidence. *Wells v. Rouleau*, 2008 VT 57, ¶ 12. Upon review of the record, the Court finds the small claims court's findings were supported by the record. See *Brandon*, 144 Vt. at 498.

Next, the Court turns to appellant's argument that the small claims court erred by reading a "reasonable business practices" term into the contract. Appellant Majestic carried the burden of proving that the damage to the vehicle occurred while in the possession of the appellees, Mr. Cioffi Sr. and Mr. Cioffi Jr. The small claims court did

not find that Majestic proved its case. Rather, the court stated in its findings that Majestic "did not keep the car on the lot until Mr. Cioffi viewed the damage, if any." Findings of Fact, #12, April 29, 2009. Further, the court concluded that "the plaintiff may have found damage to the vehicle but did not keep the car to show the damage to the defendant." Conclusions of Law, April 29, 2009. Construing the small claims court's findings, where possible, to support the judgment, *Kopelman*, 145 Vt. at 214, this Court finds that even if the small claims court did read in a "reasonable business practices" term, it was harmless error, as the findings supported a judgment denying Majestic's claim that Mr. Cioffi Sr. and Mr. Cioffi Jr. caused damage to the vehicle.

Order

The decision of the Small Claims Court, issued April 29, 2009, is AFFIRMED.

Dated at Rutland, Vermont this _____ day of _____, 2009.

_____
Hon. William Cohen
Superior Court Judge