

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 3, 2018

Sheila T. Reiff
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2017AP1824

Cir. Ct. No. 2017SC2637

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

AA AUTO RENTAL INC.,

PLAINTIFF-RESPONDENT,

v.

FLYING AJ'S TOWING COMPANY LLC,

DEFENDANT-APPELLANT,

ANTHONY SMITH,

DEFENDANT.

APPEAL from a judgment of the circuit court for Milwaukee County: WILLIAM S. POCAN, Judge. *Affirmed.*

¶1 BRASH, J.¹ Flying AJ's Towing Company, LLC appeals from a judgment in favor of AA Auto Rental, Inc. in the amount of \$1700.00, plus costs. This judgment stems from a small claims action that arose after Flying AJ's towed a vehicle owned by AA Auto Rental. The primary issue was whether Flying AJ's had provided the proper notice to AA Auto Rental that the vehicle had been towed, in accordance with WIS. STAT. § 779.415, the statute that regulates vehicle liens placed by towing services. The trial court found that Flying AJ's had failed to properly provide that statutory notice. We agree and affirm.

BACKGROUND

¶2 AA Auto Rental operated an auto rental business, located at 5250 North 76th Street in Milwaukee, for almost forty years. In April 2015, they agreed to sell the business and lease the premises at North 76th Street to Cody Jack. The vehicles owned by AA Auto Rental for use in the business, approximately twenty vehicles, were included in the purchase agreement. Jack intended to continue renting those vehicles, and agreed to pay AA Auto Rental for each vehicle as soon as he procured a certain amount of rental income. Jack began doing business as A1A Used Cars and Sales. The titles to the vehicles, however, remained in the name of AA Auto Rental. AA Auto Rental changed its mailing address with the post office to have its mail forwarded to a post office box.

¶3 On May 2, 2015, at the request of the Rock County Sheriff and the Turtle Township Police Department, Flying AJ's towed one of those vehicles, a 2007 Ford Taurus, that was included in the purchase agreement between AA Auto

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

Rental and Jack. Flying AJ's determined that the owner of the Taurus was AA Auto Rental. To comply with the requirements of WIS. STAT. § 779.415,² Flying AJ's sent notice to AA Auto Rental via certified mail to the North 76th Street address that the Taurus had been towed. However, Flying AJ's erroneously addressed the notice to AAA Auto Rental instead of AA Auto Rental.

¶4 Jack received the notice from Flying AJ's instead of AA Auto Rental. Jack contacted Flying AJ's and initially agreed to pay the charges incurred in order to resume possession of the Taurus. However, Jack called back after a day or two and advised Flying AJ's that he was not going to pick up the vehicle and that Flying AJ's could retain possession. Flying AJ's then purchased the vehicle at a public sale in June 2015.

¶5 In the meantime, AA Auto Rental was having difficulties with Jack regarding the performance of the purchase agreement. In fact, AA Auto Rental ultimately evicted Jack from the North 76th Street premises and obtained a judgment for the return of its vehicles. That judgment included the Taurus. The Taurus was not returned with the other vehicles—by then it was in the possession of Flying AJ's—and AA Auto Rental reported it stolen in March 2016.

¶6 Flying AJ's did not immediately attempt to obtain a title for the Taurus after purchasing it in June 2015. Upon contacting the Wisconsin Department of Transportation (DOT) to obtain the title, Flying AJ's was informed

² Under WIS. STAT. § 779.415, vehicle towing services that have towed a vehicle at the direction of a traffic officer may place a lien on that vehicle for “reasonable towing and storage charges[.]” Sec. 779.415(1g). The towing service, however, must provide timely notice to the owner of that vehicle: “[w]ithin 30 days after taking possession of a vehicle, every motor carrier ... under sub. (1g) shall send written notice to the owner of the vehicle ... informing them that they must take steps to obtain the release of the vehicle.” Sec. 779.415(1m)(a).

that the Taurus had been reported stolen. The DOT investigated and determined that Flying AJ's had secured the proper documentation for the purchase of the Taurus, and released the title. Flying AJ's then sold the Taurus to a private individual in August 2016.

¶7 AA Auto Rental filed a small claims action against Flying AJ's for the value of the Taurus and lost rental income. The court commissioner found in favor of Flying AJ's and entered a judgment on its counterclaim for the towing fees incurred. AA Auto Rental then demanded a court trial, which was held in August of 2017. AA Auto Rental argued that Flying AJ's had not complied with the notice provisions of WIS. STAT. § 779.415 due to the error it made regarding the company's name on the notice. AA Auto Rental asserted that had Flying AJ's sent the notice to the correct business name, it would have received the notice at its new post office box where its mail was being forwarded.

¶8 The trial court found that Flying AJ's had not properly complied with the notice provision of WIS. STAT. § 779.415. It therefore entered judgment in favor of AA Auto Rental for the value of the Taurus, less reasonable towing service costs incurred by Flying AJ's. This appeal follows.

DISCUSSION

¶9 The sole issue on appeal is whether Flying AJ's provided proper notice to AA Auto Rental with regard to the towing of the Taurus, as required under WIS. STAT. § 779.415(1m)(a). Flying AJ's concedes to using the wrong business name when it sent the notice, but argues that it was of no consequence because the notice was sent to the business address of AA Auto Rental and was received by Jack.

¶10 This issue requires the interpretation of WIS. STAT. § 779.415(1m)(a). “Statutory interpretation presents a question of law that we review independently[.]” *Roberts v. T.H.E. Ins. Co.*, 2016 WI 20, ¶19, 367 Wis. 2d 386, 879 N.W.2d 492. Our analysis “begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry.” *State ex rel. Kalal v. Circuit Court for Dane Cty.*, 2004 WI 58, ¶45, 271 Wis. 2d 633, 681 N.W.2d 110 (citation omitted). “Statutory language is given its common, ordinary, and accepted meaning, except that technical or specially-defined words or phrases are given their technical or special definitional meaning.” *Id.* Statutory language is to be interpreted “reasonably, to avoid absurd or unreasonable results.” *Id.*, ¶46. Indeed, in our review we are “not at liberty to disregard the plain, clear words of the statute.” *Id.* (citation omitted).

¶11 A statute will be deemed ambiguous only “if it is capable of being understood by reasonably well-informed persons in two or more senses.” *Id.*, ¶47. “Statutory interpretation involves the ascertainment of meaning, not a search for ambiguity.” *Id.* (citation omitted). Thus, if our analysis “yields a plain, clear statutory meaning, then there is no ambiguity, and the statute is applied according to this ascertainment of its meaning.” *Id.*, ¶46 (citation omitted).

¶12 In the statute at issue here, the relevant subsection states that the towing service “shall send written notice to *the owner of the vehicle* ... informing them that they must take steps to obtain the release of the vehicle.” WIS. STAT. § 779.415(1m)(a) (emphasis added). This language is plain and clear, and we conclude that it contains no ambiguity.

¶13 There is no dispute that AA Auto Rental was the owner of the Taurus at the time it was towed. Although Flying AJ’s concedes its error, it

contends that there was no harm in sending the notice to the wrong business name because it was received by the individual who took over the business. Yet, Jack was *not* the owner of the Taurus, and was in fact doing business under a completely different entity. Furthermore, AA Auto Rental asserts that there was harm in this error: had the notice been addressed to the proper business entity, it would likely have been forwarded to the new address AA Auto Rentals had provided to the post office, and AA Auto Rentals could have claimed the Taurus—as its owner—from Flying AJ’s back in June 2015.

¶14 Therefore, we conclude that WIS. STAT. § 779.415(1m)(a) is clear in its language requiring the towing service to send notice of the towing and associated fees to the owner, and that this requirement was not achieved by Flying AJ’s in this case. Accordingly, we affirm.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)4.

