

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 09-CV-139

DISTRICT TOWING, APPELLANT,

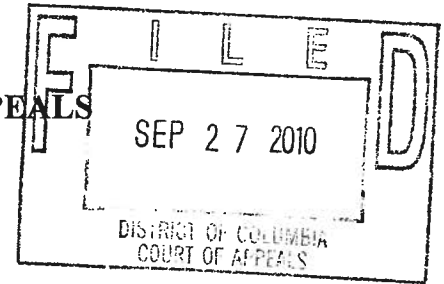
v.

SC3-7031-08

VICTORIA JOHNSON, APPELLEE.

Appeal from the Superior Court
of the District of Columbia
Civil Division

(Hon. Melvin R. Wright, Trial Judge)



(Submitted September 15, 2010)

Decided September 27, 2010)

Before KRAMER, *Associate Judge*, and NEWMAN and BELSON, *Senior Judges*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: District Towing seeks reversal of a judgment entered against it in a small claims action for conversion brought by Johnson. It contends the trial court committed reversible error in (1) denying its motion to dismiss the complaint for failure to state a claim; (2) in finding that it converted Johnson's personal property; (3) in taking judicial notice of the "Blue Book" value of Johnson's car. We affirm.

I. FACTS

Victoria Johnson was in a car accident on July 16, 2007. Johnson's automobile, a 1993 Pontiac Bonneville, was totaled in the collision and Johnson remained in the hospital for approximately three days after. Johnson received a receipt several days after the accident indicating that her vehicle had been towed by District Towing, a private towing company, and providing a phone number and address for the towing company. The receipt did not notify Johnson about the amount of time she had to reclaim her vehicle or that if she did not do so her car would be destroyed and its parts sold for their salvage value. Johnson also received a letter from the D.C. government providing the same information as the towing receipt.

After receiving the documents, Johnson contacted District Towing and was told by

a man who goes by the name of "Beebo" that he was the owner of the towing company. Beebo told Johnson that her car was totaled, explained the towing and storage fees, and Johnson informed him that the insurance company would contact him in order to conduct an estimate. Johnson asked to retrieve some personal items out of the vehicle, including her school books. Beebo informed her that pursuant to the company's policy, she could not have access to her personal property until she paid the towing and storage fees and removed the car from the lot. Beebo testified that this policy was in place to deter people from abandoning their vehicles on the company's lot. Beebo also testified that he informed Johnson that he doesn't allow insurance companies to perform automobile appraisals on his lot.

On July 27, an appraiser went to District Towing's lot to inspect Johnson's vehicle. However, by that time the vehicle was no longer available for inspection because the company had sold the car for its salvage value, or the value of its parts. The insurance company called Johnson later that day to inform her that they could not pay her the value of her vehicle because they had no vehicle to appraise. On that same day, July 27, Beebo told Johnson that she had twenty-eight days to retrieve it. By the time Beebo told Johnson about the twenty-eight day retrieval period, Johnson's car had already been destroyed.

II. PROCEDURAL HISTORY

Johnson, acting *pro se*, filed suit in the Small Claims Branch of the Superior Court against District Towing, seeking to recover \$3000, \$2500 for the loss of vehicle, and \$500 for the loss of her school books. Johnson testified that the Blue Book value of her automobile in 2005, when she purchased it, was \$2500, although she paid only \$2000 for it. She testified that the automobile had over 100,000 miles on it at the time of the accident. She testified that she purchased the school books in November 2006 for approximately \$600, but that she was seeking to recover \$500 for their loss. She stated that the books were new when she purchased them, but did not describe their condition at the time of the accident in July 2007.

Although Beebo testified that he waited until August 23 to salvage Johnson's vehicle, the trial court credited Johnson's testimony that the vehicle was salvaged on July 27, eleven days after the accident. The trial judge took judicial notice of the 2009 "Blue Book," a 1993 Pontiac Bonneville with more than 100,000 miles on it respectively in fair condition, good condition, and excellent condition. The court held that District Towing was liable for conversion of the automobile and books, and awarded damages in the amount of \$1100 for the automobile, representing the 2009 Blue Book Value of a 1993 Bonneville in good condition, and \$400 for the books. It off-set this \$1500 amount by \$300 for towing and storage and entered judgment for \$1200, plus interest and costs.

III. ANALYSIS

The complaint was sufficient to set forth a claim for conversion. *See Manago v. District of Columbia*, 934 A.2d 925, 926 (D.C. 2007).¹ Thus, the court did not err in denying the motion to dismiss.

District Towing asserts it had no duty to notify Johnson of the statutory twenty-eight day “redemption” period. We need not decide this question since the trial court found as a fact that District Towing sold the vehicle for salvage on July 27th, well prior to the expiration of the twenty-eight day “redemption” period. This finding is adequate, along with the other evidence, to support the trial court’s finding of conversion of the car as well as of its contents.² *See Manago, supra*.

Even assuming District Towing has preserved an issue concerning judicial notice of value,³ we find no error adversely impacting District Towing. The Blue Book value was noted from the 2009 “Blue Book,” not the 2007 “Blue Book,” (which was the relevant year). Common human experience is that cars generally depreciate in value, thus a 2009 value would usually be less than a 2007 value. There is no merit to District Towing’s “judicial notice” contention. *See Christopher v. Aguigui*, 841 A.2d 310, 311-12 n.2 (D.C. 2003). *See also* FED. R. EVID. 201 (d). Accordingly, it is

¹ District Towing’s motion to dismiss came after a colloquy between the court and Johnson in which she set forth the relevant facts about the destruction of her car by District Towing prior to the twenty-eight day period she had by statute in which to redeem her car.

² We have considered the other issues raised by District Towing and find them meritless.

³ The “objection” made at trial seems to have been based on its contention that it was improper for judicial notice of “Blue Book” value to be the only evidence of value.

ORDERED and ADJUDGED that the judgment on appeal herein is hereby affirmed.⁴

ENTERED BY DIRECTION OF THE COURT:



Julio Castillo
Clerk of the Court

⁴ The court expresses its thanks to the Legal Aid Society of the District of Columbia, which filed a brief as Amicus Curiae supporting affirmance pursuant to this court's order.

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