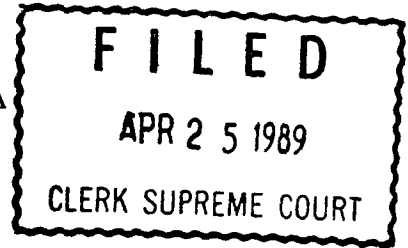


IN THE COURT OF APPEALS OF IOWA



LANCE LaROY HOLST,)

Plaintiff-Appellant,)

vs.)

CONTINENTAL WESTERN)
INSURANCE COMPANY,)

Defendant-Appellee.)

8-659
88-804

155

Appeal from the Iowa District Court for Woodbury County
(Eq. No. 93999-C), James L. McDonald, Judge.

Plaintiff appeals from a declaratory judgment action
where the district court held that plaintiff's auto
insurance policy had expired prior to the accident.

AFFIRMED.

P. D. Furlong of Sioux City for plaintiff-appellant.

Michael P. Jacobs of Kindig, Beebe, Rawlings, Nieland,
Probasco & Killinger, Sioux City, for the defendant-
appellee.

Heard by Oxberger, C.J., and Hayden and Habhab, JJ.

OXBERGER, C.J.

Plaintiff Lance Holst appeals from this declaratory judgment action where the district court held that the plaintiff's auto insurance policy had expired prior to the accident and that the defendant insurance company was therefore not obligated to provide coverage for the accident. Holst contends he was not given statutorily adequate notice of the cancellation of the policy. Our review of this equity action is de novo. Iowa R. App. P. 4. We affirm.

In August 1984, Lance Holst obtained an auto insurance policy from Continental Western Insurance Company (CWIC). The policy covered a six-month period from August 7, 1984, to February 7, 1985. Holst was a college student at the time and his father, Gary Holst, assumed responsibility for maintaining insurance coverage on Lance's vehicle.

In January 1985, CWIC sent two notices that the renewal premium was due on the policy on or before February 7, 1985. However, neither Lance nor Gary Holst paid a renewal premium on or before the policy's February 7 expiration date. On February 11 CWIC sent an expiration notice which said:

Expiration Notice

Because we have not received payment of the renewal (installment) premium due, your policy expired on 02-07-85.

Your coverage may be reinstated by immediately remitting \$156.50 to the company home office.

Testimony revealed that the company generally permitted such reinstatement if the overdue premium was received within ten days of the expiration notice.

On February 22, Gary Holst sent a check for the overdue premium to CWIC. CWIC received this check on February 25. CWIC initially cashed Gary's check, however, when processing revealed that the check referred to an expired policy, the company rejected the payment and sent a refund check to Gary Holst on February 26, 1985.

On March 2, 1985, Lance Holst was involved in an auto accident while driving the vehicle which was covered by the policy in issue. Lance Holst has been sued for damage caused by this accident. CWIC refused coverage. Holst filed the present declaratory judgment action seeking a declaration that CWIC was obligated to afford coverage for the March 2 accident. The district court ruled that CWIC was not obligated to provide coverage for the March 2 accident or for any event occurring after the policy's February 7 expiration date.

Lance Holst appeals. His only contention on appeal is that he was not given statutorily-adequate notice of cancellation of the policy and therefore the policy remained in effect through March 2 and CWIC is obligated to afford coverage for the March 2 accident.

We find the case of Travelers Indemnity Company v. Fields, 317 N.W.2d 176 (Iowa 1982) to be controlling in this case. In Travelers, the policy in question was an

auto liability policy for a definite period of time (March 23, 1977 to September 23, 1977). Travelers, 317 N.W.2d at 178. A premium renewal notice requiring payment by the expiration date was mailed to the insured approximately three weeks before the expiration date. Travelers, 317 N.W.2d at 179. The premium was not paid. Id. A statement was sent which notified Fields that the policy had lapsed and offered reinstatement if the past-due premium was sent within twenty days of the date of the notice. Id. The policy lapsed for nonpayment of premium. Id.

The sole question presented in this appeal is whether Holst was given statutorily-adequate notice of cancellation pursuant to chapter 515D of the Iowa Code. The Travelers case which is factually similar to this case held that chapter 515D does not apply to a nonrenewal situation. 317 N.W.2d at 185.

We have here a policy nonrenewal. Hence sections 515D.4 ("Notice of Cancellation - reasons") and companion section 515D.5 ("Delivering of Notice"), both deal with cancellation, do not apply Indeed, section 515D.4 expressly states, "This section shall not apply to the nonrenewal of a policy."

The sections dealing with nonrenewal are 515D.6 and 515D.7. Section 515D.6, however, does not apply here; it prohibits nonrenewal because of "age, residence, sex, race, color, creed, or occupation," and prohibits a physical examination for renewal in certain cases. None of these factors are involved in this case. Section 515D.7 does not apply because paragraph 2 of the last paragraph of the section provides:

This section shall not apply:

. . . .

2. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.

Travelers, 317 N.W.2d at 185.

Chapter 515D distinguishes cancellation from nonrenewal of policies, and excepts nonpayment of premium in the nonrenewal situation. Accordingly, we find that Holst's claim that he was not given statutorily-adequate notice is without merit in this renewal situation.

The district court correctly held that chapter 515D does not apply to this case.

AFFIRMED.