FILED
JAN 29 1985
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

D.C. CONSTRUCTION CORP.,	)	
Plaintiff-Appellant,	)	
vs.	)	Filed January 29, 1985
THE ELMER O. and IDA PRESTON EDUCATIONAL TRUST, SANDAGE REAL ESTATE, INC., n/k/a SANDAGE REAL ESTATE & FARM MANAGEMENT COMPANY, TOPLINE SALES CORPORATION, PURE LINE HOG COMPANY, MIDWEST MUTUAL INSURANCE COMPANY,	)	
Defendants,	)	
ERBEN A. HUNZIKER, MARGARET H. HUNZIKER, DEAN E. HUNZIKER, A. ESTELLE HUNZIKER,	)	4-475 84-235
Defendants-Appellants,	)	
DON C. PAR ESTATE,	)	
Defendant,	)	
JOHN M. ARMSTRONG,	)	
Defendant-Appellee.	)	

Appeal from the Iowa District Court for Story County - Milton D. Seiser, Judge.

This is an interlocutory appeal by plaintiff and defendants. Appellants are appealing the trial court's decision to grant a continuance to appellee, defendant Armstrong. AFFIRMED.

Lad Grove, Ames, Iowa, for plaintiff-appellant D. C. Construction Corp.

Donald R. Payer, Victor G. Lathrop and Greg W. Steensland of Payer, Steensland, Lathrop & Hunziker, Ames, Iowa, for defendants-appellants Hunzikers.

Richard O. Parker, Nevada, Iowa, and Sandra L. Tedlock of Parker & Handsaker, Ames, Iowa, for defendant-appellee.

Considered by Oxberger, C.J., Snell, and Schlegel, JJ.

SCHLEGEL, J.

This is an interlocutory appeal by plaintiff, D.C. Construction Corp., and defendants Erben Hunziker, Margaret Hunziker, Dean Hunziker, and A. Estelle Hunziker. Appellants are appealing the trial court's decision to grant a continuance to appellee, defendant John Armstrong. They contend: (1) the trial court erred in granting a continuance because of failure to comply with the procedures specified in Iowa Rule of Civil Procedure 215.1, and (2) if the procedural requirements of rule 215.1 were met, the trial court abused its discretion in granting the continuance. We affirm.

I. Compliance with Rule 215.1. We hold that the trial court's ruling granting a continuance is not invalid for failure to comply with rule 215.1. On August 13, 1982, all parties to this action received notice from the clerk of court that this action would be dismissed pursuant to rule 215.1 unless the case was tried or continued. By agreement of the parties and order of court, the case was continued with trial to be held before December 31, 1983.

No trial was scheduled in 1983. Thus, the case was subject to dismissal under rule 215.1 at the end of the year, even though the clerk of court did not send notice of such dismissal in 1983. See Rhiner v. Arends, 292 N.W.2d 399, 401 (Iowa 1980) (no necessity of second try-or-dismiss notice).

On December 20, 1983, Armstrong filed a motion to continue the case for trial into calendar year 1984. On December 29, the trial court issued a conditional order. The order continued the case unless objections were made by January 9, 1984. The appellants objected to the continuance, a hearing was held on the matter, and on February 2, 1984, the trial court entered a final order granting continuance.

Rule 215.1 provides in part:

> All such cases shall be assigned and tried or dismissed without prejudice at plaintiff's costs unless satisfactory reasons for want of prosecution or grounds for continuance be shown by application and ruling thereon after notice and not ex parte.

Although the conditional order was an ex parte order, the final order was not. It was granted after notice to all parties and a hearing. The trial court had jurisdiction to hear arguments on the motion and issue a final order after the dismissal date of December 31, 1983. Schimerowski v. Iowa Beef Packers, Inc., 196 N.W.2d 551, 554 (Iowa 1972) (where motion for continuance filed before the rule 215.1 deadline, jurisdiction is retained by court while motion is under advisement). In short, the trial court complied with rule 215.1.

II. Abuse of Discretion. When rule 215.1 is applicable, the trial court has "discretion to grant continuances for just cause upon timely applications." Miller v. Bonar, 337 N.W.2d 523, 526 (Iowa 1983). Appellants have not shown that the trial court's decision was exercised on grounds or for reasons clearly untenable or to an extent clearly unreasonable. See State v. Morrison, 323 N.W.2d 254, 256 (Iowa 1982) (cited in Miller, 337 N.W.2d at 527). We therefore find no abuse of discretion.

AFFIRMED.