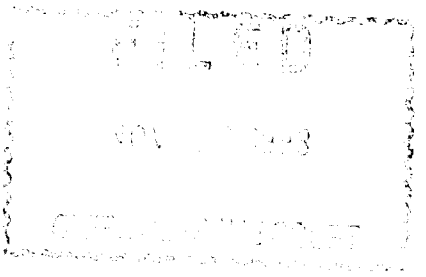
IN THE COURT OF APPEALS OF IOWA

No. 8-428 / 97-2233
Filed November 30, 1998



GREG O'TOOLE,
Appellee,

vs.

KEITH BLOOMER, JR.,
Appellant.

Appeal from the Iowa District Court for Louisa County, John G. Linn, Judge.

Keith Bloomer, Jr., appeals a district court ruling denying his motion to set aside default judgment entered in Greg O'Toole's favor for unpaid rent due on a farmland lease. **AFFIRMED.**

Davis L. Foster, Iowa City, for appellant.

Eric M. Knoernschild of Hintermeister, Knoernschild & Eichelberger, Muscatine, for appellee.

Considered by Sackett, C.J., and Huitink and Streit, JJ.

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PER CURIAM

This is an appeal by defendant Keith Bloomer, Jr., claiming the district should have granted his motion to set aside a default judgment. He contends his failure to respond to plaintiff Greg O'Toole's petition was due to excusable neglect and throughout the proceedings he exhibited his intent to defend against the lawsuit. We affirm.

On August 28, 1997, O'Toole filed an action against Bloomer for unpaid rent on farmland occupied by Bloomer. The original notice and petition were served on Bloomer's wife on August 29, 1997. Because Bloomer did not file an answer within twenty days, the district court, on September 19, 1997, entered judgment for O'Toole in the amount of $7300. Garnishment pursuant to the judgment was executed on September 24, 1997.

On September 30, 1997, Bloomer filed a motion to set aside the default judgment and motion to quash the garnishment. After a hearing, the district court denied the motion. The court concluded Bloomer had failed to plead and prove good cause, including a good-faith assertion of a claimed defense. Bloomer now appeals.

Bloomer claims the district court erred in finding he had failed to show good cause to set aside the default judgment. Bloomer testified he was away from home for five to six weeks driving a truck when the petition was served. He claimed he repeatedly asserted his intention to defend, but did not respond because he had been negotiating with O'Toole regarding the amount of rent due. Bloomer asserted

O'Toole indicated the dispute would be resolved without attorneys. He additionally asserted he had a legitimate claim against O'Toole for damages to his crops after O'Toole began tilling the rented farmland prior to the expiration of Bloomer's lease on the land.

District courts are vested with broad discretion in ruling on a motion to set aside a default. *Millington v. Kuba*, 532 N.W.2d 787, 791 (Iowa 1995). Generally, we find such an abuse only when there is a lack of substantial evidence to support the ruling of the district court. *Id.*

The burden is on the movant to plead and prove good cause to set aside a default judgment under Iowa Rule of Civil Procedure 236. *Central Nat'l Ins. Co. of Omaha v. Insurance Co. of North America*, 513 N.W.2d 750, 754 (Iowa 1994). Good cause for setting aside a default judgment is a sound, effective, and truthful reason. *Id.* It is something more than an excuse, a plea, apology, extenuation, or some justification, for the resulting effect. *Id.*

In addition, there are several factors for determining whether excusable neglect constituting good cause has been shown. These include whether the defaulting party actually intended to defend and whether the defaulting party asserts a claim or defense in good faith. *Central Nat'l Ins. Co. of Omaha v. Insurance Co. of North America,* 513 N.W.2d at 756.

Under the circumstances of this case, we cannot say the district court abused its discretion in concluding defendant failed to meet his burden of establishing good

cause based on excusable neglect under Rule 236. While we recognize Bloomer acted promptly to set side the default judgment, there is little evidence of Bloomer's intent to defend against O'Toole's claim for back rent. Moreover, Bloomer was unable to articulate any cogent defense against the claim for back rent.

In addition, the district court did not find persuasive Bloomer's claim he had not learned of the lawsuit prior to the notice of garnishment. At the hearing to set aside the default judgment, Bloomer testified he was aware of the pending action prior to the notice of garnishment. He stated upon returning home from trucking he glanced at the original notice but believed he had thirty more days to respond. Bloomer testified he had never been sued before. We believe it improbable that an individual who has never been sued before would simply "glance" at a document which clearly named him as a defendant. The notice clearly stated what Bloomer needed to do and how much time he had to preserve and protect his rights. We discern no reason to challenge the ruling of the district court that Bloomer failed to prove good cause and has offered nothing more than an excuse. We conclude the district court did not abuse its discretion in refusing to set aside the default judgment.

We affirm the decision of the district court. Costs of this appeal are assessed to Bloomer.

AFFIRMED.