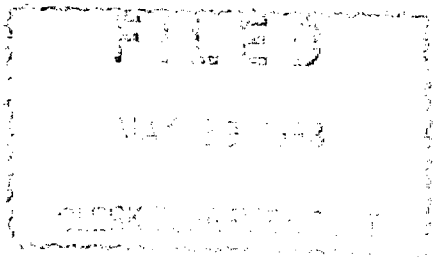
IN THE COURT OF APPEALS OF IOWA

No. 8-136 / 97-0250
Filed May 29, 1998

TODD'S LTD.,
Appellee,

vs.

HEARTLAND OF IOWA, INC., and MARVIN A. WHITAKER,
Appellants.



Appeal from the Iowa District Court for Polk County, Joel D. Novak, Judge.

The defendants appeal from the district court's judgment awarding the plaintiff damages for the defendants' failure to pay rent under a commercial lease between the parties. **AFFIRMED.**

James M. Gocke of Gocke, Lamberti & Moore, P.C., Ankeny, and Jeanne K. Johnson, Des Moines, for appellant.

Matthew Gardner, Louis R. Hockenberg, and Jill Mataya Corry of Sullivan & Ward, P.C., Des Moines, for appellee.

Heard by Cady, C.J., and Huitink and Vogel, JJ. Sackett, J., takes no part.

HUITINK, J.

Kevin Whitaker and Heartland of Iowa, Inc., appeal the district court's judgment awarding Todd's Ltd. damages for delinquent lease payments. We affirm.

I. Background Facts and Proceedings.

Todd's is an Iowa corporation operating in the Des Moines area. Todd's manufactures and packages food seasonings and sauces. It also provides warehouse space for some of its customers. Alan Niedermier is the president of Todd's.

Whitaker is the sole officer, director, and shareholder of Heartland. In the fall of 1994, Heartland, via its agent, Alan Osuna, entered into an oral lease agreement to rent warehouse space from Todd's for $1000 per month. Later in 1994 the parties agreed to lease additional space and increase the monthly rent to $1800.

Heartland paid Todd's $3971.05 under the lease agreement before defaulting on its lease obligations.[1] On September 8, 1995, Todd's served Heartland notice of noncompliance and termination of lease agreement based on Heartland's failure to pay rent.

Todd's sued Heartland and Whitaker to recover $19,540.04 in delinquent rent payments and finance charges. On the eve of trial, after discovery deadlines had passed, Todd's served a subpoena duces tecum on Whitaker compelling the production of various personal and corporate documents at trial. Whitaker's motion

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[1] Heartland's payments included monthly rent of $1000 for October and November 1994 and December 1994 rent at $1800, plus service charges.

to quash this subpoena was denied. The district court entered judgment in favor of Todd's for $19,800, plus finance charges of two percent per month commencing December 1994 through October 30, 1995, plus interest. The court held Whitaker personally responsible for Heartland's default based on his oral guarantee of Heartland's obligation to Todd's.

On appeal Whitaker and Heartland claim the district court abused its discretion in permitting Todd's to use subpoenas duces tecum to obtain documents for trial. Whitaker also contends the court erred in holding him personally liable for Heartland's lease obligation.

II. Standard of Review.

Our review is for errors of law. Iowa R. App. P. 4. We are bound by the district court's findings of fact if they are supported by substantial evidence. Iowa R. App. P. 14(f)(1). Evidence is substantial if a reasonable person would accept it as adequate to reach a conclusion, regardless of whether the evidence might support a different finding. *Cerro Gordo County v. Public Relations Bd.*, 395 N.W.2d 672, 675 (Iowa App.1986). This rule does not preclude inquiry into the question whether, conceding the truth of the facts found, a conclusion of law drawn therefrom is correct. We are not bound by the trial court's determination of the law. *Briggs Transp. Co. v. Starr Sales Co.*, 262 N.W.2d 805, 811 (Iowa 1978).

III. Whitaker's Personal Guarantee.

Whitaker argues the district court erred in holding him personally responsible for Heartland's delinquent rent payments.

In its findings of fact the district court stated:

> The evidence of the personal guarantee of Whitaker for the debt of the corporation came in without objection. The Iowa Courts have consistently held that the State of Frauds is merely a rule of evidence which does not govern the validity of a contract but only the manner in which the contract may be proven. *Sun Valley Iowa Lake Association v. Anderson*, 551 N.W.2d 621 (Iowa 1996).[2]
>
> The testimony of the parties is diametrically opposed on the issue of whether Whitaker gave a personal guarantee for the lease obligation of Heartland . . . [T]he Court finds and concludes that the plaintiff [Todd's] has established that Defendant Whitaker orally guaranteed the obligations of Heartland by agreeing to stand behind the obligations of the corporation, and by providing plaintiff with information with respect to Whitaker's assets and net worth. Furthermore, the plaintiff relied upon this guarantee.

Viewing the record as a whole, we find substantial evidence supports the district court's holding Whitaker personally guaranteed Heartland's obligations under its lease agreement with Todd's. Niedermier gave the following testimony at trial:

> Q. What did he [Whitaker] tell you about the finances of Mr. -- Heartland?
>
> . . .
>
> A. He indicated to me at one point that he had put a total of $400,000 into that operation [Heartland]. He indicated to me that he was, in addition to the owner and total financial decision-maker in that operation, that he was the owner of a company called Municipal Supplies here locally as well. He indicated to me that he had real estate holdings in the Oskaloosa area, home in Oskaloosa, farming operation outside of Oskaloosa. Discussed his net worth.

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[2] Although the district court references the statute of frauds, Whitaker did not raise this issue at trial.

Q. Alan, what did he tell you about his net worth?
A. It was in excess of four million dollars.
Q. Did he tell you anything or give you any impression that he would stand behind Heartland of Iowa?
A. Yes, he sure did . . . Mr. Whitaker was qualifying the account to me. Representing that I didn't need to worry about being taken care of.
Q. That was because of his own personal assets?
A. Correct.
Q. Did he indicate to you he would stand behind the obligation of Heartland?
A. Yes . . .

We affirm the district court on this issue. As the finder of fact, the court was free to accept Niedermier's version of the facts and reject Whitaker's version. *See Rouse v. State*, 369 N.W.2d 811, 815 (Iowa 1985). The fact the record may support another conclusion does not justify reversal of the court's decision. *Falczynski v. Amoco Oil Co.*, 567 N.W.2d 447, 449 (Iowa App. 1997)(citations omitted).

Our decision holding Whitaker personally responsible for Heartland's delinquent rent payments based on his personal guarantee obviates the need to address any remaining issues raised on appeal. Likewise, we need not consider whether any error resulted from the district court's failure to quash Todd's subpoena duces tecum. The documents requested by the subpoena implicated Whitaker's relationship with Heartland and were relevant to whether piercing Heartland's corporate veil was justified. The documents were not relevant to the court's finding Whitaker was personally responsible for Heartland's lease obligations based on his oral personal guarantee.

We have considered all of Whitaker's and Heartland's arguments on appeal and find them to be without merit. The decision of the district court is affirmed.

AFFIRMED.