FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

LEO KOHORST, EDNA KOHORST, JOSEPH SCHWEERS, and ROBERT SCHWEERS,	Filed December 27, 1983
Petitioners-Appellants,	
vs.	
THE IOWA STATE COMMERCE COMMISSION,	3-347 2-69627
Respondent-Appellee,	
and IOWA PUBLIC SERVICE COMPANY,	
Intervenor-Appellee.	

Appeal from Carroll District court, R. K. Richardson, Judge.

Petitioners appeal from entry of default judgment in a judicial review proceeding. REVERSED AND REMANDED.

Robert Kohorst of Louis, Moore, Kohorst, Louis, Murtaugh & Kohorst, Harlan, for petitioners-appellants.

Ronald C. Poole, Assistant Commerce Counsel, for reponsent-appellee.

Susan M. Stewart and Ira E. Delk, Sioux City, for intervenor-appellee.

Heard by Oxberger, C.J., and Snell and Sackett, JJ.

OXBERGER, C.J.

Petitioners appeal from entry of default judgment in a judicial review proceeding. We reverse and remand.

I. Default Judgment and Motion for More Specific Statement

On July 8, 1982, the respondent, Iowa State Commerce Commission, filed a motion for more specific statement. On July 19, 1982, the trial court ordered petitioners to make their petition more specific. Petitioner Kohorst failed to comply with the July 19, 1982, ruling. On October 4, 1982, the Commission filed a motion for entry of default and for judgment upon default. Thereafter, on October 18, 1982, petitioner Kohorst filed an amendment to comply with the ruling. On November 18, 1982, the court sustained the default judgment.

The question of allowing default judgment is largely within the discretion of the trial court; however, the policy of the court is to allow trials of actions on their merits. Avery v. Peterson, 243 N.W.2d 630, 631-32 (Iowa 1976). Accordingly, a liberal approach is to be taken in granting relief from a default judgment. First National Bank in Lenox v. Claiser, 308 N.W.2d 1, 3 (Iowa 1981). We agree that when the trial court ordered the petitioners to make their petition more specific and they failed to do so, a default is good under Iowa Rule Civil Procedure 230(b). Theis v. James, 184 N.W.2d 708, 710 (Iowa 1971); Iowa R. Civ. P. 86. However, we find that the motion to make more specific was erroneously sustained in the first place.

The trial court did not express its reasoning for sustaining the motion for more specific statement. The phrase that petitioner sought relief on certain grounds "as well as additional grounds which may later come before the Court" was superfluous and added nothing new to the petition. See Avery v. Peterson at 632.

In Lamantia v. Sojka, 298 N.W.2d 245 (Iowa 1980), the court said:

> ... pleadings have traditionally served three additional functions; (1) stating the facts relied upon; (2) narrowing the issues; and (3) providing a means for speedy disposition of sham claims and defenses. Modernized concepts of pleading and pretrial procedures, however, have all but eliminated the need for these three: relevant facts may be determined by discovery; issues may be narrowed by discovery, pretrial conference, or by partial summary judgment; and summary judgment provides an expeditious means of disposing of sham claims.
>
> It has been observed that under notice pleading rules "it is very difficult for counsel to draft a pleading so badly as to lose the rights of his clients," ...

Id. at 247.

The petition specified the alleged agency conduct complained of under notice pleading; this was all that was required. The trial court was in error when it required the plaintiff to make his petition more specific to specify which grounds under the seven statutory grounds the alleged agency action was illegal. Under notice pleading the defendant can obtain this information through discovery or pretrial conference. The motion should not have been sustained. Furthermore, we do not agree that Iowa Rule Civil Procedure 69 is inconsistent with Iowa Code section 17A.19(4), thus making notice pleading not applicable. Therefore, we reverse that portion of the trial court ruling.

II. Jury Trial

We find no merit in petitioners' argument that the jury demand was improperly stricken. The trial court exercises appellate jurisdiction in reviewing administrative decisions of the Iowa State Commerce Commission. Iowa Public Service v. Iowa State Commerce Commission, 263 N.W.2d 766, 768 (Iowa 1978). There is no right to a jury trial in appellate proceedings.

We reverse and remand this case to the trial court to be tried on its merits.

REVERSED AND REMANDED.