FILED
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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 3-430 / 92-1705

ROY HUTCHINSON,

Plaintiff-Appellee,

vs.

MILWAUKEE GUARDIAN INSURANCE INCORPORATED, A Wisconsin Corporation,

Defendant-Appellant.

Appeal from the Iowa District Court for Webster County, Newt Draheim, Senior Judge.

Defendant insurance company appeals from a district court judgment awarding damages to the plaintiff for damages sustained to plaintiff's roof and ceiling. **AFFIRMED.**

Mark R. Crimmins of Bennett, Crimmins & Yung, Fort Dodge, for appellant.

Jerry L. Schnurr III of the Schnurr Law Firm, Fort Dodge, for appellee.

Considered by Donielson, C.J., and Sackett and Huitink, JJ. Cady, J., takes no part.

SACKETT, J.

Plaintiff-appellee Roy Hutchinson's home was insured under a homeowner's policy with defendant-appellant Milwaukee Guardian Insurance Incorporated. The question in this appeal is whether the trial court correctly determined the amount of an insuror's responsibility for water damage was the cost of replacement, not the cost of repair. We affirm.

The policy provided Milwaukee would repair or replace damage to the home itself without deducting. However; the amount paid would not exceed the smallest of the following amounts:

> 1. Full replacement costs of the building or any part of the building with equivalent construction and use on the same premises; or
> 2. The amount actually and necessarily spent to repair or replace any part of the damaged building for equivalent use on the same premises.

In October 1989 and March 1990, plaintiff's ceiling was damaged by rains and ice. The ceiling has open beam construction and wood paneling and is vaulted to the angle of the roof. Defendant believed the ceiling could be satisfactorily repaired and refused to pay to have it replaced.

Plaintiff sued. The case was tried to the district court. The district court awarded plaintiff the cost of a new ceiling finding, if a patch repair were made, it would in time discolor and not match the rest of the ceiling.

Defendant appeals contending the district court erred

in awarding the cost of replacement rather than the cost of repair. Our review of the district court's findings is on errors of law. Iowa R. App. P. 4. The district court's findings of fact in a law action are binding upon review if supported by substantial evidence. Iowa R. App. P. 14(f)(1). Evidence is substantial or sufficient when a reasonable mind would accept it as adequate to reach the same findings. PEB Practice Sales, Inc. v. Wright, 473 N.W.2d 624, 626 (Iowa App. 1991) (citing Waukon Auto v. Farmers & Merchants Sav. Bank, 440 N.W.2d 844, 846 (Iowa 1989)).

Defendant asserts the evidence does not support a finding replacement of the ceiling was necessary. Plaintiff's expert witness testified he did not believe the ceiling could be repaired by patching because the wood would eventually turn darker than the existing ceiling, and the patches would be obvious. He further said, in order to obtain equivalent construction, it was necessary to replace all the wood on the ceiling. Defendant's expert witness testified, although he felt the ceiling could be repaired, he thought it possible the patched areas would fade.

Where damage can be repaired so that, when repaired, it will be in as good a condition as it was before the damage and the cost does not exceed replacement, then the cost of repair fixes the obligation. See Hulsing v. Iowa Nat'l Mut. Ins. Co., 329 N.W.2d 5, 7-8 (Iowa 1983). But, where there is a finding the damage is not repairable, then the cost of replacement fixes the obligation. See id. at 8

The policy provides it will pay to repair or replace damage "for equivalent use." There was substantial evidence supporting the trial court's finding the ceiling could not be repaired for an equivalent use.

AFFIRMED.