**IN THE COURT OF APPEALS OF IOWA**

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FILED
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No. 7-472 / 96-1877
Filed December 29, 1997

**IN THE MATTER OF THE ESTATE OF EDMUND W. MICHAEL, DECEASED,**

**RUTH KRESS,**
Appellant,

vs.

**DAVID DALE GERICKE, Personal Representative of the Estate of EDMUND W. MICHAEL,** Deceased,
Appellee.

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Appeal from the Iowa District Court for Buchanan County, William G. Klotzbach, Judge.

Ruth Kress appeals a district court ruling denying her contract claim against Edmund Michael's estate for services provided Michael prior to his death. **AFFIRMED.**

Guy P. Booth of Fisher, Ehrhart, McCright & Turner, Cedar Rapids, for appellant.

D.J. Smith of King, Smith & Boresi, Cedar Rapids, for appellee.

Heard by Cady, C.J., and Sackett and Huitink, JJ.

**HUITINK, J.**

Ruth Kress appeals the district court ruling denying her contract claim against Edmund Michael's estate for services provided Edmund prior to his death. We affirm.

***I. Background Facts and Proceedings.***

Ruth Kress is the daughter-in-law of Edmund Michael. Ruth married Edmund's son, LuVerne, in February 1972. Edmund and LuVerne farmed together. LuVerne died in February 1992; Edmund died in November 1995. From April 9, 1972 until February 2, 1992, Ruth provided various services to Edmund. These services included furnishing meals, laundry, housecleaning, yard work, field work, painting, and transportation. Ruth testified she understood Edmund would compensate her for her services either in cash or by giving her and LuVerne a portion of his farm.

Between December 28, 1990, and December 30, 1991, Edmund gave LuVerne checks totalling $6750. Ruth testified Edmund may have given her between $600 and $900 annually in the form of gifts, however this money was not compensation for services rendered.

In June 1993, in anticipation of a claim by Ruth against his estate, Edmund prepared an affidavit detailing numerous transactions between Edmund, Ruth, and LuVerne. The affidavit states Edmund paid Ruth up to $125 per month, until LuVerne's death, for services Ruth provided to him.

The district court found Ruth failed to prove an oral contract for services existed between Ruth and Edmund and dismissed her claim.

*II. Standard of Review.*

This is an action to establish a contested claim against an estate. Iowa Code section 633.33 (1993) provides, in part, "[a]ctions to set aside or contest wills, for the involuntary appointment of guardians and conservators, and for the establishment of contested claims shall be triable in probate as law actions . . . ." Accordingly, this is a law action. We review for error. Iowa R. App. P. 4.

We will affirm if there is substantial evidence to support the district court's findings. *In the Matter of the Guardianship and Conservatorship of Wemark*, 525 N.W.2d 7, 9 (Iowa App. 1994); Iowa R. App. P. 14(f)(1). We construe the district court's findings broadly and liberally. *Grinnell Mut. Reins. Co. v. Voeltz*, 431 N.W.2d 783, 785 (Iowa 1988). We do not weigh the evidence or the credibility of the witnesses. *Id.*

> A finding of fact is supported by substantial evidence if the finding may be reasonably inferred from the evidence. In evaluating sufficiency of the evidence, we view it in its light most favorable to sustaining the court's judgment. We need only consider evidence favorable to the judgment, whether or not it was contradicted.

*Briggs Transp. Co. v. Starr Sales Co.*, 262 N.W.2d 805, 808 (Iowa 1978).

"Evidence is substantial or sufficient when a reasonable mind could accept it as adequate to reach the same findings." *Waukon Auto Supply v. Farmers & Merchants Sav. Bank*, 440 N.W.2d 844, 846 (Iowa 1989) (citation omitted). Evidence

is not insubstantial merely because it could support contrary inferences. *Grinnell Mut. Reins. Co.*, 431 N.W.2d at 785 (citation omitted).

With these principles in mind, we turn to the issue raised on appeal.

***III. Existence of a Contract.***

The sole issue on appeal is whether the district court erred in finding Ruth did not establish the existence of an oral contract between herself and Edmund.

The parties agree there is no written contract. Ruth bases her claim on an alleged oral agreement. The burden of proving a unilateral contract rests on the person seeking recovery based on the contract. *Phipps v. IASD Health Services Corp.*, 558 N.W.2d 198, 203 (Iowa 1997). The level of proof required to establish a claim against an estate for services rendered to the decedent is a preponderance of evidence. *In re Estate of Martin*, 155 N.W.2d 401, 406 (Iowa 1968).

"A unilateral contract consists of an offeror making a promise and an offeree rendering some performance as acceptance." *Anderson v. Douglas & Lomason Co.*, 540 N.W.2d 277, 283 (Iowa 1995). Parties to a contract must manifest their assent to be bound and do so in a manner sufficiently definite to be enforceable. *Hunter v. Board of Trustees of Broadlawns Medical Center*, 481 N.W.2d 510, 514 (Iowa 1992). To sustain the burden of proof an oral contract exists, "the terms must be sufficiently definite for a court to 'determine with certainty the duty of each party and the conditions relative to performance.'" *Burke v. Hawkeye Nat. Life Ins. Co.*, 474 N.W.2d 110, 113 (Iowa 1991) (citation omitted).

Upon reviewing the record, we conclude the district court correctly dismissed Ruth's claim. There is evidence Ruth provided Edmund services and Edmund paid her for those services. Edmund's affidavit contained a lengthy recitation of numerous transactions between Edmund, Ruth, and LuVerne, including the amounts of money Edmund paid Ruth for laundry and meals. Moreover, evidence of Edmund's basic integrity was introduced. However, we agree with the district court there is insufficient evidence in the record to establish a contract existed between Ruth and Edmund for the *additional services* Ruth claims she provided Edmund. We accordingly determine the court did not err in finding Ruth failed to prove an oral contract existed for the items enumerated in her claim for which she was not paid. We affirm the district court.

**AFFIRMED.**