IN THE COURT OF APPEALS OF IOWA

No. 1-180 / 90-1092

FILED
JUN 25 1991
CLERK SUPREME COURT

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JAMES E. JOHNSON,

Plaintiff-Appellee,

vs.

INTERSTATE POWER COMPANY,

Defendant-Appellant.

INTERSTATE POWER COMPANY,

Third Party Plaintiff-Appellant,

vs.

D & J FEED SERVICE, INC., and DALE JONES,

Third Party Defendants-Appellees.

Appeal from the Iowa District Court for Allamakee County, James J. Beeghly, Judge.

Plaintiff was injured when he came into contact with a high-voltage power line during the course of his employment. He recovered a judgment from the power company. The power company has now appealed. **AFFIRMED BY OPERATION OF LAW.**

David L. Hammer and Angela C. Simon of Hammer, Simon & Jensen, Dubuque, for appellant.

James E. Thomson of Jacobson, Bristol, Thomson, Garrett & Swartz, Waukon, for appellee Johnson

Richard J. Howes and Ronald L. Anderson of Howes & Anderson, P C , Des Moines, for appellees D & J Feed and Jones

Heard by Oxberger, C J , and Sackett and Habhab, JJ., but decided en banc

PER CURIAM

The court being equally divided, the judgment is affirmed by operation of law. Iowa Code § 602.5106(1) (1989).

AFFIRMED.

For affirmance Oxberger, C J , and Schlegel and dayden, JJ

For reversal and dismiss Donielson, Sackett, and Habhab, JJ