FILED
APR 27 1982
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

ROBERT L. SMITH, Conservator of the Conservatorship of STEVE MORRICE,

Plaintiff-Appellant,

vs.

DUANE HARRISON,

Defendant/Cross-Appellant.

Filed April 27, 1982 159

2-87
2-66525

Appeal from Ida District Court, Lawrence W. McCormick, Judge.

Plaintiff-conservator appeals from the dismissal of the action seeking to cancel a farm lease agreement between his ward and defendant-lessee, and defendant-lessee appeals from the dismissal of the cross-appeal for abuse of process, malicious prosecution, and intentional infliction of emotional distress. AFFIRMED BY OPERATION OF LAW PURSUANT TO SECTION 684.36(1), THE CODE 1981. AFFIRMED ON CROSS-APPEAL.

Morris C. Hurd, Ida Grove, for plaintiff-appellant.

John P. Duffy of Connell & Duffy, P.C., and Thomas L. McCullough of McCullough Law Firm, P.C., for defendant/cross-appellant.

Gary W. Armstrong of Mach, Hansen, Gadd & Armstrong, P.C., for cross-defendant/cross-appellee, Robert L. Smith.

Heard by Oxberger, C.J., and Donielson, Carter, and Johnson, JJ. Snell, J., takes no part.

PER CURIAM

This appeal has been considered by four judges of the court. On plaintiff-conservator's appeal of the trial court's dismissal of his action seeking to cancel a farm lease between his ward and defendant-lessee, and defendant-lessee's appeal of the trial court's dismissal of his cross-appeal for abuse of process, malicious prosecution, and intentional infliction of emotional distress, two judges would affirm the trial court and two judges would reverse. The judges of this court being equally divided on the issues, the trial court's order dismissing plaintiff's action is affirmed by operation of law pursuant to section 684.36(1), The Code 1981. We have considered the defendant's cross-appeal and all judges agree that the judgment of the trial court on those issues should be affirmed.

AFFIRMED BY OPERATION OF LAW PURSUANT TO SECTION 684.36(1), THE CODE 1981. AFFIRMED ON CROSS-APPEAL.