FILED
DEC 2 3 1986
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

86

ALTHEA FREIBURGER,	)	
Plaintiff-Appellant,	)	
TOM CLINTON and DEBRA CLINTON,	)	
Plaintiffs	)	6-346 86-272
vs.	)	
PEOPLES NATURAL GAS, a Division of Internorth, Inc.,	)	
Defendant-Appellee.	)	

Appeal from the Iowa District Court for Clayton County (2092-0683) - Joseph C. Keefe, Judge.

The plaintiff Frieburger has appealed, contending the amount of damages awarded her against Peoples Natural Gas for her property damage was inadequate. **AFFIRMED.**

Joseph J. Bitter, Dubuque, for the plaintiff-appellant Freiburger.

Douglas M. Henry, of Fuerste, Carew, Coyle, Juergens & Sudmeier, P.C., Dubuque, for the defendant-appellee.

Heard by Donielson, P.J., and Hayden and Sackett, JJ.

HAYDEN, J. 87

Plaintiff, Althea Freiburger, owned a mobile home in Guttenberg, Iowa, which, at the time of the fire, was rented by Tom and Debra Clinton. The mobile home and its contents were completely destroyed by fire on September 30, 1982. In a suit filed June 22, 1983, plaintiffs sued to recover the value of the mobile home and its contents, based upon the alleged negligence of defendant, Peoples Natural Gas.

The case was tried to the court, which found the defendant liable. The district court awarded plaintiff Freiburger damages of $9,900 for the loss of the mobile home; the Clintons were awarded damages of $12,713.83 for the loss of personal property inside the home. On January 15, 1986, the plaintiff Freiburger filed a motion to enlarge and for a new trial. Both were denied.

Plaintiff Freiburger has appealed, contending the amount of damages awarded were inadequate. She argues the evidence presented at trial established the value of the mobile home at $20,000 rather than $9,900.

We note that our review of the trial court is limited to errors in law. Iowa R. App. P. 4. Therefore, this case is reviewed as tried in the court below. Mosebach v. Blythe, 282 N.W.2d 755, 758 (Iowa 1979). If supported by substantial evidence and justified as a matter of law, the judgment will not be disturbed on appeal. Atlantic Veneer Corp. v. Sears, 232 N.W.2d 499, 502 (Iowa 1975); Iowa R. App. P. 14(f)(1). But the reviewing court is not bound by the trial court's determination of law. Mosebach 282 N.W.2d at 759.

Initially we address the plaintiff's assertion that the trial court should have granted the motion for new trial based upon the inadequate award of damages. It is well established a trial court has considerable discretion in ruling on a motion for new trial on the ground of inadequacy of a verdict. Householder v. Town of Clayton, 221 N.W.2d 488, 493 (Iowa 1974). The issue as to whether

damages are so inadequate as to warrant a new trial is generally for the trial court to decide, such discretion will not ordinarily be disturbed on appeal unless an abuse of discretion is shown. Kaiser v. Stathas, 263 N.W.2d 522, 524-25 (Iowa 1978). The trial court possesses broad but not unlimited discretion in determining whether the verdict effectuates substantial justice between the parties. Iowa R. App. P. 14(f)(3). Regarding the trial court's denial of a new trial, we find no abuse of discretion and we affirm on this issue.

Plaintiff Freiburger further contends the trial court's award of damages was too low, based upon the evidence. She points to her husband's, her nephew's, and her own testimony as supporting this contention. The determination of the credibility of witnesses and the weight of their testimony is a matter for the trier of fact. Knight v. Anderson, 292 N.W.2d 411, 415 (Iowa 1980). The court specifically discredited testimony of plaintiff and Ronald Freiburger and found plaintiff had paid $10,000 for the trailer. Along with these findings we note that plaintiff on her 1982 income tax return filed a $9,223 loss for the destruction of the mobile home.

The amount of damages allowed in a nonjury case is within the scope of the discretionary powers of the trial court. Hysell v. Iowa Public Service Co., 534 F.2d 775, 786 (8th Cir. 1976). The Hysell court used the following language, which we adopt:

> . . . inadequacy or excessiveness of a verdict is basically, and should be, a matter for the trial court which has had the benefit of hearing the testimony and of observing the demeanor of the witnesses and which knows the community and its standards; that this is a responsibility which, for better working of the judicial process and for other seemingly obvious reasons, is best placed upon its shoulders; and that we shall continue to consider review, as we have said before, not routinely and in every case, but only in those rare situations where we are pressed to conclude that there is "plain injustice" or a "monstrous" or "shocking" result.

Id., n.8. Further we note the rule "a verdict will be set aside as inadequate where it appears clearly from uncontradicted evidence that the amount of the verdict bears no reasonable relationship to the loss suffered by the plaintiff." Householder, 221 N.W.2d at 493.

Keeping in mind these legal standards, we determine the district court's damage award bears a reasonable relationship to plaintiff Freiburger's loss. We affirm on this allegation.

AFFIRMED.