IN THE COURT OF APPEALS OF IOWA

HAWKEYE ANKENY BANK & TRUST,)
Plaintiff-Appellee,) Filed January 27, 1988
vs) 7-209 / 86-1015
CHARLES E. HAYS, JR.,) 97
Defendant-Appellant.)

Appeal from the Iowa District Court for Polk County (No. CL 60-35097), Gene L Needles, Judge.

Defendant appeals the judgment entered in favor of plaintiff bank finding him liable for three checks he wrote on a corporate account, for which the bank reimbursed the corporation. **REVERSED.**

Scott H. Hughes of Council Bluffs for defendant-appellant.

Richard D. Hermann of Ankeny for plaintiff-appellee.

Considered by Oxberger, C.J., and Hayden and Sackett, JJ.

OXBERGER, C.J.

The defendant, Charles Hays, appeals the judgment entered in favor of the plaintiff, Hawkeye Bank & Trust (Hawkeye), finding him liable for three checks he wrote on a corporate account. He asserts on appeal that the trial court erred in: (1) ruling that he was not authorized to execute the checks; and (2) holding him responsible for the three checks despite alleged negligence on Hawkeye's part in negotiating the checks. We reverse.

Our scope of review is for the correction of errors at law. Iowa R. App. P 4. The trial court's findings of fact are binding upon us if supported by substantial evidence. Iowa R. App. P. 14(f)(7).

In May of 1984, Hays entered into a business relationship with Jeffrey Fulton. They formed a corporation called Mar-Lynn Co. d/b/a Brandy's. Fulton, Hays, and Sherry Fulton opened a corporate bank account for the business. In doing so, they executed a standard corporate resolution and completed a signature card authorizing Hays and the Fultons to draw upon the account. These forms were both standardized forms supplied by Hawkeye.

In the fall of 1984, the business relations between the men deteriorated. Fulton went to Hawkeye and obtained a new signature card, but did not obtain a corporate resolution form. Fulton then completed the new signature card excluding Hays from drawing on the account. He delivered the card to Hawkeye, but did not provide Hawkeye with a new corporate resolution.

In December of 1984, Hays went to Hawkeye on two occasions and obtained three counterchecks which had been encoded with Mar-Lynn Co.'s account number. He negotiated two at Hawkeye and mailed the third to the South Story Bank. All three checks were honored by Hawkeye.

Fulton complained to Hawkeye, and Hawkeye refunded the money to Mar-Lynn Co. and entered into an agreement preserving Hawkeye's rights. Hawkeye then demanded payment from Hays which was refused.

Hays contends the trial court erred in finding he did not have the authority to execute the checks. He argues he was authorized to draw on the account by the original corporate resolution which was never revoked. He cites Iowa Code section 524.808 in support of his position.

Iowa Code section 524.808(1)(b) states:

> 1 A state bank shall not be required, in the absence of a court order or indemnity required by this section, to recognize any claim to, or any claim of authority to exercise control over, a deposit account made by a person or persons other than:
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> > b. An individual or group of individuals who are authorized to draw on or control the account pursuant to certified corporate resolution or other written arrangement with the customer, currently on file with the state bank, which has not been revoked by valid corporate action in the case of a corporation, or by a valid agreement or other valid action appropriate for the form of legal organization of any other customer, of which the state bank has received notice and which is not the subject of a dispute known to the state bank as to its original validity. The deposit account records of a state bank shall be presumptive evidence as to the identity of the customer on whose behalf the money is held.

The comment explaining the section further states: "The state bank would be required, for example, to recognize the authorized signers under a corporate resolution on file until it receives notice of revocation of it." Iowa Code Ann. § 524 808(1)(b) Iowa Code comment (West 1970).

A Hawkeye Vice-President testified that it was necessary to complete a new corporate resolution to remove or add a name to a corporate account. This was Hawkeye's normal operating procedure. She also testified that Hawkeye did not obtain a new resolution for its records.

The question then becomes whether the new signature card operates as a revocation of the original corporate resolution. We hold it does not. A corporate resolution is the product of action by a board of directors. It is required to change the authority for a corporate account. There was no board action taken in this case In this case the new signature was completed without Hays' knowledge To allow the signature card to operate as a revocation would inject instability into a bank's corporate account system

We also note that, even if the signature card operated as a revocation, the teller at Hawkeye failed to check the new card in order to determine whether Hays had the authority to draw on the account Hawkeye cannot now be heard to complain

Because Hawkeye did not obtain a new corporate resolution, and since Iowa law requires Hawkeye to recognize Hays' authority, we hold the trial court erred in finding Hays did not have the requisite authority We therefore reverse the decision of the trial court and hereby order the plaintiff's petition be dismissed

REVERSED