MAINE SUPREME JUDICIAL COURT

Reporter of Decisions
Decision No. Mem 09-62
Docket No. Cum-08-422

SOPHIA R. KOURINOS et al.

v.

RICHARD E. MERRITT

Submitted on Briefs February 26, 2009
Decided March 17, 2009

Panel: CLIFFORD, ALEXANDER, LEVY, SILVER, MEAD, and GORMAN, JJ.

MEMORANDUM OF DECISION

Richard E. Merritt appeals from a small claims judgment entered in the Superior Court (Cumberland County, *Warren, J.*) in favor of Sophia R. Kourinos and Kenneth J. Grondin following a de novo jury trial.[1] M.R. Civ. P. 80L. We review factual findings for clear error and legal conclusions de novo, *see Phillips v. Johnson*, 2003 ME 127, ¶ 22, 834 A.2d 938, 945, bearing in mind, however, that small claims proceedings, whether in the District Court or on appeal to the Superior Court, are conducted in a "simple and informal way," *see* M.R.S.C.P. 1; *see also* 14 M.R.S. § 7481 (2008).

Merritt presents four issues on appeal. First, contrary to Merritt's contention, the court's failure to apply, or to instruct the jury sua sponte as to, the law of collateral estoppel was not obvious error, *see Morey v. Stratton*, 2000 ME 147, ¶¶ 9-10 n.3, 756 A.2d 496, 499, given Merritt's failure to meet his burden of demonstrating that the specific issue asserted was actually decided in the forcible entry and detainer action, *see Macomber v. MacQuinn-Tweedie*, 2003 ME 121,

[1] Merritt requested a de novo jury trial when he appealed to the Superior Court from a small claims judgment entered in the District Court (Bridgton, *Beaudoin, J.*) in favor of Kourinos and Grondin on their claim seeking the return of a security deposit withheld by Merritt.

¶¶ 22, 25, 834 A.2d 131, 138-39, 140 (stating the elements required to assert collateral estoppel and that the party asserting estoppel has the burden of proof); *see also Bureau v. Gendron*, 2001 ME 157, ¶ 9, 783 A.2d 643, 645 (stating that a FED action is a summary proceeding to decide the single issue of immediate right of possession to land); *Tozier v. Tozier*, 437 A.2d 645, 647, 649 n.7 (Me. 1981). Second, we discern no error in the court's instruction to the jury, in relation to 14 M.R.S. § 6030(2)(B), (3) (2008), concerning Merritt's claim for recovery of fees assessed in pursuit of enforcing the lease. Third, the jury's determination that Merritt was entitled to retain only $8.50 of an $850 security deposit allows the conclusion that the remainder was wrongfully retained, supporting an award of double damages pursuant to 14 M.R.S. § 6034(2) (2008).[2] Finally, the court did not abuse its discretion in denying Merritt's motion for a new trial or to alter or amend the judgment. *See Estate of Colburn*, 2006 ME 125, ¶ 11, 909 A.2d 214, 217; *Putnam v. Albee*, 1999 ME 44, ¶ 6, 726 A.2d 217, 219.

The entry is:

Judgment affirmed.

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Sophia R. Kourinos and Kenneth J. Grondin did not file a brief.

[2] The self-represented tenants did not seek "attorney fees" pursuant to this section.