

[Cite as *Walters v. Haworth*, 2002-Ohio-2054.]

IN THE COURT OF APPEALS FOR MIAMI COUNTY, OHIO

TONY and TERRI WALTERS	:	
Plaintiffs-Appellees	:	C.A. CASE NO. 2001 CA 55
v.	:	T.C. NO. 01 CVIT 1813
JEFF HAWORTH	:	
	:	Defendant-Appellant

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**OPINION**

Rendered on the 26<sup>th</sup> day of April, 2002.

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TONY and TERRI WALTERS, 8668 St. Rt. 41 East, Troy, Ohio 45373  
Plaintiffs-Appellees

JEFF HAWORTH, 4548 Korner Drive, Huber Heights, Ohio 45424  
Defendant-Appellant

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WOLFF, P. J.

{¶1} Jeff Haworth appeals from a judgment for \$3,000, interest, and costs entered against him and in favor of Tony and Terri Walters in the Small Claims Division of the Miami County Municipal Court.

{¶2} Both Haworth and the Walters appeared *pro se* in the trial court and appear here *pro se*. Haworth has not advanced an assignment of error, but states in the civil docket statement that the issue for review is “unfair decision.”

{¶3} The claim arises out of a deck Haworth and Daniel Fonzi constructed for the Walters in October, 1998, for which the Walters paid \$3,045.

{¶4} The Walters claimed that the deck contained numerous defects due to faulty construction. They claimed that Haworth and Fonzi assured them that they would stand behind their work and make any necessary repairs, but that when they contacted Haworth and Fonzi in June, 1999, to make repairs to the deck, they failed to do so. (The Walters were unsuccessful in obtaining service upon Fonzi).

{¶5} Haworth contended the alleged defects were the result of the Walters' failure to timely seal the deck within thirty days to six weeks after it was built, as he and Fonzi had instructed them to do.

{¶6} In a brief decision and entry, the trial court found the Walters had met their burden of proof, and that Haworth and his witnesses "were not credible nor worthy of belief."

{¶7} The Walters, in addition to their testimony, presented photographic and documentary evidence of the defects, and an estimate from Troy Home Improvements that the cost of repair was \$3,000.

{¶8} The trial court disbelieved Haworth's explanation for the condition of the Walters' deck. Appellate courts are necessarily deferential to the trial courts' determinations as to credibility, as it is those courts which have the opportunity to observe and listen to the witnesses.

{¶9} Based on the record of these proceedings, we have no reason to disturb the judgment.

{¶10} Accordingly, the judgment will be affirmed.

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GRADY, J. and YOUNG, J., concur.

Copies mailed to:

Tony and Terri Walters  
Jeff Haworth  
Hon. Elizabeth Simms Gutmann