

COURT OF APPEALS
LICKING COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KENNETH L. SCHUHART

Plaintiff - Appellee

-vs-

NATISHA KATHERINE SCHUHART

Defendant - Appellant

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JUDGES:

Hon. W. Scott Gwin, P.J.
Hon. Sheila G. Farmer, J.
Hon. Craig R. Baldwin, J.

Case No. 15-CA-16

O P I N I O N

CHARACTER OF PROCEEDING:

Appeal from the Licking County
Municipal Court, Case Numbers
14-CVI-0283 and 14-CVH-2308

JUDGMENT:

Affirmed

DATE OF JUDGMENT:

June 29, 2015

APPEARANCES:

For Plaintiff-Appellee

KENNETH L. SCHUHART, pro se
12546 Flint Ridge Road, SE
Newark, OH 43055

For Defendant-Appellant

CHRISTOPHER R. MEYER
Reese, Pyle, Drake & Meyer, P.L.L.
36 North Second Street
P.O. Box 919
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Baldwin, J.

{¶1} Defendant-appellant Natisha Katherine Schuhart appeals from the February 9, 2015 Judgment Entry of the Licking County Municipal Court entering judgment in favor of plaintiff-appellee Kenneth Schuhart in the amount of \$2,010.00 plus interest.

STATEMENT OF THE FACTS AND CASE

{¶2} Appellee is appellant's former father-in-law. On August 20, 2008, appellee tendered a check in the amount of \$3,500.00 to appellant, who was not yet married to his son. The notation on the check indicated that the money was a car loan. There was no written agreement or note between the parties with respect to the loan and the oral agreement between the parties did not specify the manner of repayment of the loan. Appellant made payments to appellee totaling \$1,490.00.

{¶3} On or about August 22, 2014, appellee sent a letter to appellant alleging that she owed him \$2,930.00 and stating that he needed the money for medical bills. Appellant, in a response to appellee dated August 26, 2014, argued that she did not owe the money.

{¶4} Thereafter, on September 26, 2014, appellee filed a small claims complaint against appellant, alleging that she owed him \$2,930.00 and had not made a payment since November 30, 2009.¹ Appellant, on November 3, 2014, filed a Motion to Transfer the case to the regular docket. Appellant, in her motion, argued that she had defenses to the claim made by appellant, including a defense that appellee's claim was barred by the statute of limitations contained in R.C. 2305.07. Pursuant to a Judgment

¹ Appellant and appellee's son separated in the fall of 2009.

Entry filed on November 13, 2014, the case was transferred to the regular docket. Appellant filed an answer to the complaint on November 26, 2014.

{¶5} A bench trial was held on January 8, 2015. In a Decision filed on February 9, 2015, the trial court found that appellant owed appellee a balance of \$2,010.00. As memorialized in a Judgment Entry filed on the same day, the trial court granted judgment in favor of appellee in the amount of \$2,101.00 plus interest.

{¶6} Appellant now raises the following assignment of error on appeal:

{¶7} THE TRIAL COURT ERRED BY FINDING THAT R.C. [SECTION] 2305.07 PROVIDES A SIX-YEAR STATUTE OF LIMITATIONS THAT DOES NOT ACCRUE UNTIL A PARTY DEMANDS PAYMENT WHEN APPLIED TO AN ORAL PROMISE TO PAY MONEY WHERE THERE IS NO DEFINITE TIME FOR PAYMENT STIPULATED ON THE DATE OF INITIAL PROMISE.

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{¶8} Appellant, in her sole assignment of error, argues that the trial court erred in finding, in its February 9, 2015 Decision, that appellee's claim against appellant was not barred by the six year statute of limitations set forth in R.C. 2305.07.

{¶9} R.C. 2305.07 states as follows: "Except as provided in sections 126.301 and 1302.98 of the Revised Code, an action upon a contract not in writing, express or implied, or upon a liability created by statute other than a forfeiture or penalty, shall be brought within six years after the cause thereof accrued."

{¶10} As noted by the court in *Pomeroy v. Schwartz*, 8th Dist. No. 99638, 2013-Ohio-4920 at paragraph 30:

The case law indicates when an oral contract involves a loan agreement, the courts have been willing to delay the running of the statutory time until when the creditor demands payment or when the borrower refuses to pay. “When the subject of the oral contract is a loan, the accrual date is when the loan is due to be repaid, the lender requests payment, and the borrower fails to pay.” *Thomas v. Kramer*, 194 Ohio App.3d 70, 2011–Ohio–1812, 954 N.E.2d 1235, ¶ 34 (8th Dist.), citing *Dandrew v. Silver*, 8th Dist. Cuyahoga No. 86089, 2005–Ohio–6355. When an oral agreement does not specify a time for repayment of a debt, the cause does not accrue until a party demands payment. *Berry v. Lupica*, 196 Ohio App.3d 687, 2011–Ohio–5381, 965 N.E.2d 318 (8th Dist.).

{¶11} In addition, this Court, in *Beard v. Bradley*, 5th Dist. Delaware No. 85-CA-24, 1986 WL 6451 (May 16, 1986), held that “[i]n the case of a loan, no cause of action accrues until the loan is due to be repaid.” *Id* at 2.

{¶12} In the case sub judice, the oral agreement did not specific a time for repayment. Appellee demanded payment in August of 2014 and filed his complaint in September of 2014. We concur with the trial court that the complaint was filed within the 6 year statute of limitations contained in R.C. 2305.07.

{¶13} Appellant’s sole assignment of error is, therefore, overruled.

{¶14} Accordingly, the judgment of the Licking County Municipal Court is affirmed.

By: Baldwin, J.

Gwin, P.J. and

Farmer, J. concur.