

[Cite as *Bailey & Assoc. Co., L.P.A. v. McQuaide*, 2002-Ohio-2629.]

IN THE COURT OF APPEALS OF ERIE COUNTY

K. Ronald Bailey &
Associates Co., L.P.A.

Appellant

Court of Appeals No. E-02-006

Trial Court No. CVF-0102495

v.

Barbara McQuaide

Appellee

DECISION AND JUDGMENT ENTRY

Decided: May 24, 2002

* * * * *

Barbara J. Rogachefsky, for appellant.

* * * * *

KNEPPER, J.

¶ 1

This is an accelerated appeal from the judgment of the Sandusky Municipal Court, Erie County, which granted appellant default judgment against appellee.

Appellant raises the following sole assignment of error:

¶ 2

"THE TRIAL COURT ABUSED ITS DISCRETION BY AWARDING ON A DEFAULT JUDGMENT A POST JUDGMENT RATE OF INTEREST LESS THAN THE RATE OF INTEREST STIPULATED IN THE CONTRACT AND LESS THAN THE RATE OF INTEREST DEMANDED IN PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT."

¶ 3

The parties entered into a fee agreement whereby appellee agreed to pay 1.5 percent per month on any amount billed that became more than 30 days past due.

Appellee was delinquent on her account with appellant. Appellant filed suit and received a default judgment against appellee. The trial court awarded appellant \$4,938.99, as prayed for in the

complaint, but reduced the monthly interest rate to one percent.

¶ 4 R.C. 1343.03 states that when money becomes due and payable upon a contract, the creditor is entitled to interest on that money at the rate provided for in the contract. If no interest rate is specified, the creditor is entitled to interest at the statutory rate of ten percent per annum. Insofar as there was a contract in existence between the parties that specified an interest rate of 1.5 percent per month, we find that the trial court abused its discretion in awarding an interest rate in an amount less than that agreed to by the parties. Appellant's sole assignment of error is therefore found well-taken.

¶ 5 On consideration whereof, the court finds substantial justice has not been done the party complaining and the judgment of the Sandusky Municipal Court, Erie County, is reversed. Pursuant to App.R. 12(B), we find that K. Ronald Bailey & Associates Co., L.P.A., is granted judgment against Barbara McQuaide in the amount of \$4,938.99, together with interest at the rate of 1.5 percent per month from October 18, 2001, and costs of this action.

JUDGMENT REVERSED.

Peter M. Handwork, J.

JUDGE

Melvin L. Resnick, J.

JUDGE

Richard W. Knepper, J.
CONCUR.

JUDGE