

[Cite as *Tisdale v. A-Tech Automotives Mobile Serv.*, 2010-Ohio-5244.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 94308

MR. VENIS TISDALE

PLAINTIFF-APPELLANT

vs.

A-TECH AUTOMOTIVES MOBILE, ETC.

DEFENDANT-APPELLEE

**JUDGMENT:
AFFIRMED**

Civil Appeal from the
Euclid Municipal Court
Case No. 08 CVI 03287

BEFORE: Jones, J., Rocco, P.J., and Celebrezze, J.

RELEASED AND JOURNALIZED: October 28, 2010

FOR APPELLANT

Venis Tisdale
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Richmond Heights, Ohio 44143

FOR APPELLEE

A-Tech Automotives Mobile
Service and Garage
21900 St. Clair Avenue
Euclid, Ohio 44117

LARRY A. JONES, J.:

{¶ 1} Plaintiff-appellant, Venis Tisdale (“Tisdale”), appeals from the trial court’s decision. Having reviewed the arguments of the parties and the pertinent law, we hereby affirm the judgment of the trial court.

STATEMENT OF THE CASE AND THE FACTS

{¶ 2} Tisdale had a problem with the brakes on his car. He called and stopped at several different parts stores to price brake lines. Tisdale and his brother-in-law then attempted to fix the car. Unfortunately, they were unable to fix the brakes themselves and because of the unfinished repairs, Tisdale’s car was

left immobile. Tisdale then called various repair shops to see if any of them could fix his brakes. One of the shops Tisdale contacted was A-Tech Automotives Mobile Service and Garage (“A-Tech”). A-Tech told Tisdale that if he brought his car down to the shop they would check it out and see if they could fix it. Consequently, Tisdale had his car towed to A-Tech where they inspected his car.

{¶ 3} Tisdale eventually had A-Tech replace, properly flare, and bleed the brake lines on his vehicle. However, Tisdale was not happy with the repairs. The anti-lock braking system (“ABS”) trouble light was now stuck in the on position, and Tisdale was also unhappy with the \$299.37 price he paid for the repairs. A-Tech agreed to fix the ABS trouble light for free and did so. Tisdale, however, still felt that the repair price was too high and the brakes could have been done quicker. Consequently, Tisdale filed a complaint in small claims court in Euclid, Ohio. The magistrate found in A-Tech’s favor and the judge agreed, adopting the magistrate’s decision in full. Tisdale now appeals.

ASSIGNMENTS OF ERROR

{¶ 4} Tisdale assigns one assignment of error on appeal:

“The lower court refused to re-hear the small claims case, case number 08CVI03287 on the conflicting testimony and the conflicting evidence that is in the case based upon what their Magistrate (Vetus J. Syracuse) has ruled that he found in the case, their own Magistrate had heard the case in court and made a ruling stating that ‘the parties presented conflicting testimony and evidence regarding payment of the bill and the repair,’ and also he (Vetus J. Syracuse) stated that ‘subsequently, defendant repaired the ABS light on plaintiff’s vehicle for free, rather than billing the \$80 charge to plaintiff.’”

LEGAL ANALYSIS

{¶ 5} The decision to modify, affirm, or reverse a magistrate's decision is within the trial court's discretion, and this court may not reverse the trial court's decision absent an abuse of discretion. *Marchel v. Marchel*, 160 Ohio App.3d 240, 2005-Ohio-1499, 826 N.E.2d 887, at ¶7. An "abuse of discretion" means the trial court was unreasonable, arbitrary, or unconscionable in its ruling. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219, 450 N.E.2d 1140.

{¶ 6} Tisdale's legal analysis is ambiguous. However, the gravamen of Tisdale's argument is that he disagreed with the magistrate's decision regarding her findings of fact and conclusions of law.

{¶ 7} The magistrate provided the following in her findings of fact and conclusions of law:

"1. Plaintiff and his brother-in-law improperly replaced the brake lines on Plaintiff's 1997 Olds 88.

"2. Plaintiff's vehicle was towed to Defendant's shop to repair the brake lines on August 23, 2007.

"3. Defendant inspected the vehicle, diagnosed the problem, repaired the brake lines and charged Plaintiff \$299.97 on August 24, 2007.

"4. Defendant paid for the repairs on August 24, 2007.

"5. Subsequently, Defendant repaired the ABS light on Plaintiff's vehicle for free, rather than billing the \$80 charge to Plaintiff.

"6. The parties presented conflicting testimony and evidence regarding payment of the bill and the repair."

{¶ 8} In Tisdale's pro se brief, he makes much of the fact that there is conflicting testimony in the case at bar. Tisdale mentions six cases involving conflicting testimony that he mistakenly believes support his case. Tisdale failed

to properly cite the cases in his brief and merely attached internet copies of various articles or web pages to his appendix. However, the fact that Tisdale improperly cited the cases is unimportant because the internet articles discussing the cases involve cases that are easily distinguishable and do not apply to Tisdale's case.

{¶ 9} The mere fact that there is conflicting testimony between the parties does not nullify the trial court's decision. The mere fact that a case contains conflicting testimony, in and of itself, is unremarkable. The vast majority of cases brought forth involve a difference of opinion and conflicting testimony involving much of the evidence. The parties must still meet their burden of proof.

{¶ 10} Review of the evidence demonstrates that it is undisputed that Tisdale and his brother-in-law tried unsuccessfully to replace the brake lines on Tisdale's 1997 Oldsmobile Delta 88. It is also undisputed that Tisdale's vehicle was towed to A-Tech's auto shop to repair the brake lines on August 23, 2007.

{¶ 11} Neither party disputes the fact that A-Tech inspected the vehicle, diagnosed the problem, repaired the brake lines, and charged Tisdale \$299.97 on August 24, 2007. Tisdale paid for the repairs on August 24, 2007. The dispute lies in the fact that Tisdale is unhappy with the amount — he believes that it should have been less.

{¶ 12} It is also undisputed that after the repair, Tisdale informed A-Tech that the ABS light on his dashboard was now staying on. A-Tech went ahead and fixed the problem, but did not bill Tisdale the \$80.00 for the repair.

{¶ 13} Review of the magistrate's findings of fact and conclusions of law demonstrate no error on the part of the trial court. This court holds that the trial court did not abuse its discretion in adopting the magistrate's decision.

{¶ 14} Accordingly, Tisdale's sole assignment of error is without merit.

Judgment affirmed.

It is ordered that appellee recover of appellant its costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

LARRY A. JONES, JUDGE

KENNETH A. ROCCO, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR