

STATE OF MICHIGAN
COURT OF APPEALS

SHELLY WEST,

Plaintiff-Appellee,

v

GRAND PLAZA PROPERTIES, INC.,

Defendant-Appellant.

UNPUBLISHED

June 29, 2006

No. 255709

Ottawa Circuit Court

LC No. 03-047395-AV

Before: Owens, P.J., and Saad and Fort Hood, JJ.

PER CURIAM.

Defendant appeals by leave granted from the circuit court's order affirming a district court's order that denied defendant's motion for relief from judgment following entry of a final order after acceptance of a case evaluation award. We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In January 2003, plaintiff filed a complaint in the district court against defendant stemming from their commercial landlord-tenant relationship. Plaintiff requested money damages arising from unlawful detention of personal property, repossession of the property, and treble damages for forcible entry and detainer. Defendant filed an answer and counterclaim for unpaid rent.

By mid-February 2003, the district court issued an order concerning plaintiff's request for repossession of the property. In that order, the trial court determined that in lieu of granting repossession to plaintiff, defendant would receive all of the equipment, furniture, trade fixtures and other items remaining on the premises. The court also explained that plaintiff would receive an \$11,000 credit for such property toward any money damages that were later determined to be owed by plaintiff to defendant.

The trial court subsequently ordered that the case be submitted to case evaluation. The result of the case evaluation was an award of \$1,000 to plaintiff and \$0 to defendant. Both parties accepted this award. When plaintiff requested that the district court enter a final judgment in the case, it was discovered that the parties had a very different interpretation of the effect of the case evaluation. Plaintiff argued that the case evaluation did not include or change the prior determination concerning the \$11,000 credit for the property left on the premises. Accordingly plaintiff requested a final judgment in the amount of \$12,000 to incorporate both the \$11,000 credit for the property and the \$1,000 case evaluation award. Defendant, however,

understood the case evaluation to have considered the prior \$11,000 credit to plaintiff and money owed by plaintiff for unpaid rent, and subsequently resolved the entire case with the judgment of \$1,000 awarded to plaintiff. Defendant alleged that the issue of the \$11,000 credit had been submitted to the case evaluation panel, submitted an affidavit delineating what transpired before the panel, and alleged that the case evaluation panel took the \$11,000 credit into account when it rendered the award.¹

The district court entered judgment in favor of plaintiff in the amount of \$12,000, and subsequently denied defendant's request for relief from that judgment. On appeal, the circuit court affirmed the district court's decision and allowed the issue pertaining to the \$11,000 credit for property left on the premises to be separate from the case evaluation award of \$1,000 to plaintiff. The circuit court's decision opined that the issue of property left on the premises was no longer disputed following the district court's decision, and therefore it was not submitted to the case evaluators.

Interpretation of a court rule is a question of law that is reviewed de novo on appeal. *CAM Constr v Lake Edgewood Condo Ass'n*, 465 Mich 549, 552; 640 NW2d 256 (2002).

MCR 2.403(M)(1), concerning the acceptance of a case evaluation, provides as follows:

If all the parties accept the panel's evaluation, judgment will be entered in accordance with the evaluation, unless the amount of the award is paid within 28 days after notification of the acceptances, in which case the court shall dismiss the action with prejudice. *The judgment or dismissal shall be deemed to dispose of all claims in the action* and includes all fees, costs, and interest to the date it is entered. [MCR 2.403(M)(1) (emphasis added).]

When a case is submitted to case evaluation, it is the civil action that is submitted, not certain claims within the civil action. MCR 2.403(A)(1); *CAM, supra*, 555 n 6. "The language of MCR 2.403(M)(1) could not be more clear that accepting a case evaluation means that *all claims* in the *action*, even those summarily disposed, are dismissed. Thus, allowing bifurcation of the claims within such actions . . . would be directly contrary to the language of the rule." *CAM, supra*, 555 (emphasis in original).

Cases decided before *CAM* have been specifically overruled to the extent that those cases allowed parties to show that certain claims were excepted from a case evaluation. *CAM, supra*, 556-557. "These decisions improperly allow a party to make a showing that 'less than all issues were submitted' to case evaluation. Allowing the parties involved in the case evaluation process to make such a showing has no basis in the court rule." *Id.* Rather, the plain language of the

¹ The trial court's order regarding the \$11,000 credit expressly provided that when prosecuting the remaining claims, this credit "shall" be taken into account when computing the final money judgment. Under the circumstances, the parties were on notice that the \$11,000 was not a definitive judgment, but subject to modification pending adjudication of all claims.

court rule “evidences our desire to avoid bifurcation of civil actions submitted to case evaluation.” *Id.*, 557.

In the case at hand, the trial court’s determination that less than all the issues were submitted to case evaluation was erroneous. The court’s decision to then enter a final judgment based on both the case evaluation and the prior determination is plainly a bifurcation of the issues that is to be avoided in case evaluations. Rather, the court rule requires that the case evaluation award of \$1,000 to plaintiff disposed of *all* the claims in the case, including the issue concerning property left on the premises and monetary damages issues alleged in both the complaint and counter complaint. Moreover, we note that this interpretation is consistent with the district court’s order regarding the \$11,000 credit. This order expressly provided that the \$11,000 credit would be taken into account when computing the final money judgment. Accordingly, the circuit court’s affirmation of the district court’s bifurcation of issues and allowance to except issues from a case evaluation was also erroneous. The plain language of the court rule states that acceptance of a case evaluation disposes of all claims in the action. MCR 2.403(M)(1). There is no basis in the court rule for parties to bifurcate an action or submit less than all issues of an action to case evaluation. *CAM, supra*, 556-557.

Reversed and remanded for entry of judgment pursuant to the case evaluation award in the amount of \$1,000 for plaintiff. We do not retain jurisdiction.

/s/ Donald S. Owens
/s/ Henry William Saad
/s/ Karen M. Fort Hood