

IN THE SUPREME COURT OF THE STATE OF IDAHO

DALLEN WORTHINGTON and
RACHEL WORTHINGTON,

Plaintiffs/Appellants,

vs

CARLENE CRAZY THUNDER,

Defendant/Respondent.

Supreme Court No.: 49976-2022
District Court No.: CV06-21-1582

AMENDED APPELLANT'S BRIEF

Appeal from the District Court of the Seventh Judicial District
of the State of Idaho, in and for the County of Bingham

HONORABLE DARREN B. SIMPSON,
District Judge, Presiding

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STATEMENT OF THE CASE

A. Nature of the Case

Plaintiffs/Appellants, Dallen and Rachel Worthington (“Appellants”) appeal the Memorandum Decision and Order on Appeal entered by the District Court, vacating the Magistrate Court’s decision and order entered in the underlying case.

B. Statement of the Facts and Course of Proceedings

1. On September 16, 2021, Worthingtons gave Crazy Thunder a Notice Nonpayment of Rent. Crazy Thunder did not pay the past-due rent.
2. On October 12, 2021, Worthingtons filed a Complaint for Unlawful Detainer against their tenant, Crazy Thunder, pursuant to Idaho Code § 6-303, for non-payment of rent.
3. On October 21, 2021, Crazy Thunder filed a verified answer to the Worthingtons’ Complaint, along with a Motion to Dismiss the Complaint.
4. On October 22, 2021 Worthingtons gave Crazy Thunder a Three-Day Notice to Cure Default (pay) or Quit (vacate) the Premises. Crazy Thunder did not pay the past due rent.
5. On October 25, 2021, Magistrate Judge Scott Hansen heard argument on the various motions that were before the court.¹
6. On October 26, 2021, Worthingtons filed an Amended Complaint for Unlawful Detainer, pursuant to Idaho Code § 6-303, for non-payment of rent.
7. On October 27, 2021, Crazy Thunder filed a Motion to Dismiss Amended Complaint.
8. On October 28, 2021, Crazy Thunder filed an Answer to Amended Complaint and Demand for Jury Trial.

¹ See Clerk’s Record (“R.”) at 40-41

9. On November 1, 2021, Judge Hansen voluntarily recused himself and the case was assigned to Magistrate Judge Cleve Colson.
10. On November 8, 2021, Judge Colson heard argument and subsequently denied Crazy Thunder's Motion to Vacate Bench Trial and denied Crazy Thunder's Motion for Jury Trial and proceeded with the Bench Trial on the expedited proceedings.² Crazy Thunder refused attend the hearing/trial³, but was represented by her counsel, Karl Lewies. During the trial, Mr. Lewies indicated "[they] were not going to participate."⁴ After the presentation of evidence, the Court found Crazy Thunder to be in unlawful possession of the property⁵ and ordered her removal therefrom.⁶
11. On November 16, 2021, Crazy Thunder filed a Notice of Appeal to the District Court, considering the following questions:
 - a. Does Idaho Code § 6-311A violate Article I, Sec. 7 of the Idaho Constitution?
 - b. Did Judge Colson err in denying Crazy Thunder's jury demand?
 - c. Should Judge Colson's attorney fee award to the Worthingtons be vacated?
 - d. Is Crazy Thunder entitled to attorney fees and costs on appeal?
12. On June 22, 2022, District Court Judge Darren B. Simpson issued his Decision and Order on Appeal, holding that Idaho Code § 6-311A violates Art. I, Sec. 7 of the Idaho Constitution; that the Magistrate Court erred in denying Crazy Thunder's jury demand;

² R. at 69-70.

³ See Exhibits ("E.") at 52-54, transcript pages 26:24-25 and 28:10-14. The full transcript of the November 8, 2021, hearing/trial appears at pages 30 through 70 of the Exhibits.

⁴ E. at 58, transcript pages 32:15-16; E. at 59, transcript pages 33:13-14 and; E. at 64, transcript pages 38:3-4.

⁵ E. at 66, transcript pages 40:15-20.

⁶ E. at 66, transcript pages 40:21-24.

vacating the award of attorney's fees in favor of Worthingtons and awarding attorney fees on appeal to Crazy Thunder.⁷

13. On August 3, 2022, Worthingtons filed a Notice of Appeal to this Court.

ISSUES PRESENTED ON APPEAL

- I. Whether the District Court erred in holding Idaho Code §6-311A violates the Constitution of the State of Idaho.
- II. Whether the District Court erred in vacating the Magistrate's order granting Plaintiff's complaint for eviction for nonpayment of rent without a jury trial.
- III. Whether the District Court erred in finding there were issues of material factual dispute presented by Defendant in relation to non-payment of rent claim of the Plaintiffs.

STANDARD OF REVIEW

"Both constitutional questions and questions of statutory interpretation are questions of law over which this Court exercises free review..." *Stuart v. State*, 149 Idaho 35, 232 P.3d 813 (Idaho 2010).

When reviewing the decision of a district court acting in its appellate capacity, the Idaho Supreme Court does not review the decision of the magistrate court. *Bromund v. Bromund*, 167 Idaho 925, 928, 477 P.3d 979, 982 (2020) (citing *Bailey v. Bailey*, 153 Idaho 526, 529, 284 P.3d 970, 973 (2012)). Rather,

this Court is "procedurally bound to affirm or reverse the decisions of the district court." However, in so doing, this Court reviews the record before the magistrate court "to determine whether there is substantial and competent evidence to support the magistrate's findings of fact and whether the magistrate's conclusions of law follow from those findings.".... If the magistrate court's findings are supported by substantial and competent

⁷ R. at 106, Decision and Order on Appeal

evidence “and the conclusions follow therefrom,” this Court will affirm the district court’s decision affirming the magistrate court “as a matter of procedure.”

Bromund, 167 Idaho at 928, 477 P.3d at 982 (internal citations omitted).

ARGUMENT

A. The District Court erred in concluding that Idaho Code §6-311A violates Art. I, Sec. 7 of the Idaho Constitution.

Article 1 Section 7 of the Idaho Constitution reads: “The right of trial by jury shall remain inviolate.”

Idaho Code §6-311A reads in part,

“In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent or on the grounds that the landlord has reasonable grounds to believe that a person is, or has been, engaged in the unlawful delivery, production, or use of a controlled substance on the leased premises during the term for which the premises are let to the tenant, or for forcible detainer, or if the tenant is a tenant at sufferance pursuant to subsection (11) of section 45-1506, Idaho Code, the action shall be tried by the court without a jury.”

It would seem that Idaho Code §6-311A and Article 1 Section 7 of the Idaho Constitution are in direct conflict with each other. However, “the longstanding rule in Idaho that the right to a jury trial does not embrace equitable actions.”⁸

As far back as 1898 the Idaho Supreme Court held, “The guaranty found in section 7, article 1 of the constitution, that the right of trial by jury shall remain inviolate, was not intended to extend the right of trial by jury, but simply to secure that right as it existed at the date of the adoption of the constitution. Such provision

⁸ David Steed and Associates v. Young, 115 Idaho at 254, 766 P.2d at 724. (Bakes, J. dissenting.)

does not guarantee a jury trial in equitable actions.”⁹ The Idaho Supreme Court reinforced that idea in 1925, when it held, "Art. 1. sec. 7 of the Idaho constitution, guaranteeing trials by jury, refers only to actions at law and not to equitable actions." ¹⁰

In the present case, the relief sought by the Worthingtons is equitable in nature as it seeks only for the return of possession of the property to the lawful owners for Crazy Thunder’s failure to adhere to the lease agreement and pay the agreed upon sum by the agreed upon time. There is no request for any monetary damages.

Crazy Thunder’s Answer and Demand of Jury Trial alleges various defenses, but does not allege that payment was made.

Idaho Code §6-311A is narrow in scope. It only allows for an award of possession in the event that the complainant proves, at trial, that the tenant has failed to make the required rent payments, it does not allow the complainant to be awarded damages.

In *Morton* the Idaho Supreme Court held,

“Where the ultimate relief sought in an action is the recovery of a money judgment, and equitable issues are only incidental, the action is one at law. (Johansen v. Looney, 30 Idaho 123, 163 P. 303.) Under such circumstances, if, without the consent of the parties, a statute authorizes a reference of the cause merely because it involves a long account, such statute is repugnant to art. 1, sec. 7 of the constitution, providing that the right of trial by jury shall remain inviolate, and any reference made is erroneous.” ¹¹

⁹ Christensen v. Hollingsworth, 6 Idaho 87, 53 P. 211 (Idaho 1898)

¹⁰ Morton v. Morton Realty Co., 41 Idaho 729, 241 P. 1014 (Idaho 1925)

¹¹ Id.

Considering the ultimate relief sought in an unlawful detainer action, solely for non-payment of rent, is possession and not money damages, it has to be that such an action is an action in equity, and, as such a jury trial is not guaranteed by Article 1 Section 7 of the Idaho Constitution.

There is no right to a jury trial in an equitable action, and an unlawful detainer action that seeks only possession of the property for non-payment of rent is an equitable action. Worthingtons' suit was for possession only for the reason on non-payment of rent.

Therefore, Crazy Thunder was not entitled to a jury trial and the District Court erred in concluding that Idaho Code §6-311A is unconstitutional.

B. The District Court erred in vacating the Magistrate's order granting Plaintiff's complaint for eviction for nonpayment of rent without a jury trial.

In its Decision and Order on Appeal, the District Court vacated the Magistrate's Amended Eviction Order. This decision by the District Court ignored Idaho's longstanding rule in Idaho that the right to a jury trial does not embrace equitable actions.

As outlined above, it is the Worthingtons' position that Idaho Code §6-311A is not unconstitutional and therefore, the District Court's decision to vacate the order of the Magistrate is error.

C. The District Court erred in finding there were issues of material factual dispute presented by Defendant in relation to non-payment of rent claim of the Plaintiffs.

In its Decision and Order on Appeal, the District Court found that “Crazy Thunder raised material issues of fact”¹²

Idaho Code §6-311A reads, “In an action exclusively for possession of a tract of land of five (5) acres or less for the nonpayment of rent...the action shall be tried by the court without a jury.”

Crazy Thunder, in her answer, alleges certain defenses, but does not ever allege that she actually made the payment of rent as agreed to in the lease. Those defenses may give rise to a separate action against the Worthingtons, as outlined in Idaho Code §6-320¹³, but that is not central to the point of non-payment of rent. Idaho law does not allow the withholding of rent by a tenant outside of installation of smoke detectors under Idaho Code §6-320(6). Worthingtons did not seek to evict Crazy Thunder for any reason other than for non-payment of rent.¹⁴ Since there is no lawful way for a tenant to withhold rent from a landlord, an unlawful detainer action exclusively for non-payment of rent cannot be considered retaliatory. In *Connolly* the Idaho Court of Appeals held, “[A] landlord shall not terminate a tenancy, refuse to renew a tenancy, increase rent or decrease service[s] he normally supplies...” simply because the tenant has complained about the maintenance and condition of the premises.¹⁵

In the present case, Wothingtons did not terminate the tenancy, refuse new tenancy, increase the rent or decrease the services the normally supplied.

¹² R. at 105.

¹³ See: Idaho Code §6-320 – Action for Damages and Specific Performance by Tenant.

¹⁴ R. at 42 – Amended Complaint for Unlawful Detainer.

¹⁵ *Connolly v. Powell*, 118 P.3d 1232, 141 Idaho 844 (Idaho 2005)

They simply demanded the rent that was due to them despite whatever complaints Crazy Thunder had regarding the condition of the premises.

While Crazy Thunder may have certain causes of action under Idaho Code §6-320, she made no material dispute of the facts under Idaho Code §6-303 and Idaho Code §6-311A, which limit the scope of the unlawful detainer to that of non-payment of rent.

Because Crazy Thunder did not allege she paid the rent that was due, there was no material dispute of fact and therefore the District Court erred in making such a finding as a basis for vacating the Magistrate's decision.

D. Appellant is entitled to an award of attorney fees on appeal.

Pursuant to I.C. § 12-121, in any civil action the court may award reasonable attorney fees to the prevailing party when the court finds that "the case was brought, pursued or defended frivolously, unreasonably or without foundation." Idaho law has recognized jury trials are not a right in an equity action since 1898. Crazy Thunder's attempt to get this Court to over-look its longstanding rules is frivolous, unreasonable and without foundation. For these reasons, Respondent respectfully requests that the Court enter an order awarding Appellants their attorney fees on appeal.

CONCLUSION

The District Court concluded that Idaho Code 6-311A violated the Idaho Constitution because it did not allow for a jury trial in unlawful detainer cases for the reason of non-payment of rent. However, the law in Idaho since 1898 does not recognize a right to a jury trial in actions

at equity. Since there was no right to a jury trial, the District Court erred in vacating the Magistrate Court's Amended Order.

For these reasons, Appellants respectfully request that the Court hold the District Court erred by concluding Idaho Code 6-311A is unconstitutional, vacating the Magistrate's order and finding that there were material questions of fact presented by Crazy Thunder. Respondent further requests an award of attorney fees on appeal.

DATED this 12th day of December, 2022.

/s/ Jeromy W. Pharis
Jeromy W. Pharis
Attorney for Respondent