

STATE OF MAINE

KENNEBEC, ss.

ALAN GRONDIN,

Plaintiff/Appellant

v.

WILLIAM JEFF CROFT,

Defendant/Appellee

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-01-94

15-251-5/01-2001

DONALD L. GERSHBERG
LAW LIBRARY

MAY 28 2001

DECISION ON APPEAL

This matter comes before the court on appeal by Alan Grondin from a small claims decision of the District Court in favor of defendant William Croft. Mr. Grondin's complaint in the District Court concerned a home inspection performed by Mr. Croft which, according to Mr. Grondin, failed to disclose serious deficiencies in the roofing on the house. The District Court docket sheet indicates that hearing was held on the matter on October 15, 2001, and judgment for defendant Croft was entered on October 30, 2001. The judgment was recorded on a Notice of Judgment (small claims) which notes that both parties appeared for the hearing and judgment was granted to the defendant after that hearing. As is common with small claim decisions, no further explanation of the judgment was given, and no request for findings of fact was made by either of the parties.

The record on appeal is sparse due to the fact that apparently no record of the hearing was made. Although there are exhibits in the file, there is no transcript of either the testimony of the witnesses or of any comments on the record by the

District Court Judge that might indicate the basis for his findings and conclusion. In his brief, the appellant argues that the District Court must have made an error of law in applying the principles of common law negligence, but fails to specify what that error is, presumably because of the lack of record. The brief itself appears to be an attempt to reargue the merits of the case, but that is not the function of an appeal in a case of this type. In the absence of either a transcript of the hearing or a request for written findings of fact, this court must assume that there was adequate evidence of record to support whatever unstated findings the District Court made. Nor can this court find an error of law since no error can be specified.

For the reasons stated above, the entry will be:

Appeal DENIED.

Dated: May 10, 2002



S. Kirk Studstrup
Justice, Superior Court

Date Filed 12/26/01 Kennebec County Docket No. AP01-94

Action Appeal from District Court
Small Claims

J. STUDSTRUP

Alan Grondin

vs.

William Jeff Croft

Plaintiff's Attorney

Michael K. Mahoney, Esq.
One City Center
P.O. Box 9546
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Defendant's Attorney

-81 W. Commercial St. 2nd Floor
Portland Maine 04101

Date of
Entry

1/2/02

Appeal from Southern Kennebec District Court with all papers, filed.
(filed 12/26/01)

1/2/02

Notice of briefing schedule mailed to atty and Dft.

2/4/02

Appellant Alan Grondin's M.R.Civ.P.76G Appeal of District Court Civil
Action, fled. s/Mahoney, Esq. (attached exhibits A,B,C)

Notice of setting for 5/8/02

sent to attorneys of record.

5/08/02

Hearing had, Studstrup, J.
No courtroom clerk present. Court to issue order.

5/10/02

DECISION ON APPEAL, Studstrup, J.
Appeal DENIED.
Copies mailed to atty of record and Dft.
Copies mailed to Deborah Firestone, Gabrecht Library and Goss.