

Commonwealth Of Kentucky

Court Of Appeals

NO. 2002-CA-000464-MR

BURGESS SORRELLS

APPELLANT

APPEAL FROM KNOTT CIRCUIT COURT
v. HONORABLE SAMUEL T. WRIGHT, III, SPECIAL JUDGE
ACTION NO. 95-CI-00025

KENTUCKY POWER COMPANY

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: BARBER, DYCHE, AND TACKETT, JUDGES.

DYCHE, JUDGE: Appellant, Burgess Sorrells, applied for electrical service with appellee, Kentucky Power Company, the supplier for that area. The site proposed for service has originally had a residential structure on it, but that home had been destroyed by fire. Sorrells sought service to a shed which he was using as a home during the reconstruction of a residence on the site. The site was approved by an electrical inspector, but when the installer of appellee arrived, he and Sorrells apparently could not agree on the necessity and/or location of a utility pole for the site. This resulted in the installer

leaving the site, and a consequential delay in providing Sorrells with power of about seventy-five days.

Sorrells brought this action seeking monetary damages of \$300.00 representing the additional cost of buying ~~A~~take-out@ type food he was required to buy since he was without electricity and unable to store or prepare food on site. In addition to these compensatory damages for wrongful refusal to provide electrical service to him, he sought punitive damages in the sum of \$100,000.

Following a series of pre-trial hearings and the submission of memoranda by the parties, the trial court dismissed the claim for punitive damages, and remanded the other claim to the district court due to the amount in controversy. This appeal followed.

On appeal, Sorrells claims that it was error for the trial court to grant a motion for summary judgment (CR 56) on February 6, 2002, which it had denied on October 11, 2001. From the record and the pleadings herein, we find that the initial oral motion for summary judgment was passed by the court in order to allow Sorrells to have more time within which to marshal proof in support of his claims. The extra ninety days granted by the trial court for this purpose expired, and the power company filed a written motion asking, again, for that relief. That motion was served on Sorrells, but he claims the service was tardy and/or insufficient.

We have examined the record and are of the opinion that Sorrells had sufficient notice of, and time to respond to, the motion for summary judgment on the punitive damages issue. Any supposed error in the motion or notice was harmless error, at worst. Sorrells has produced no proof from which it could be determined that he is entitled to punitive damages.

The judgment of the Knott Circuit Court is affirmed.

ALL CONCUR.

Appellant *Pro Se*
Burgess Sorrells
Sassafras, Kentucky

BRIEF FOR APPELLEE:

Randall Scott May
Barrett, Haynes, May, Carter,
& Roark, P.S.C.
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