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**STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1846**

Tad McCannell,
Respondent,

vs.

Sean Roulo,
Appellant.

**Filed July 14, 2009
Affirmed
Stauber, Judge**

St. Louis County District Court
File No. 69DUCV062791

Peter Radosevich, P.O. Box 384, Esko, MN 55733 (for respondent)

Sean Roulo, Suite 10, 314 West Superior Street, Duluth MN 55802 (pro se appellant)

Considered and decided by Bjorkman, Presiding Judge; Stoneburner, Judge; and
Stauber, Judge.

UNPUBLISHED OPINION

STAUBER, Judge

On appeal from a judgment in favor of respondent regarding respondent's claim that he was overcharged for a wilderness camping trip in which appellant was the hired guide, appellant argues that the district court's findings are not supported by the record. Because the findings are supported by the record, we affirm.

FACTS

In June 2006, respondent Tad McCannell hired appellant Sean Roulo to guide him and his two children on a wilderness camping trip. Respondent paid the cost in full before the trip, which included money for the camping fees, food, bait, fishing licenses, and transportation to and from the boundary waters entry point. After the trip, respondent sued appellant in conciliation court for \$732, alleging poor fishing guide services, failure to return some of respondent's personal property, and overcharging for various items, including an extra day. Appellant counterclaimed, alleging non-payment for the use of a motorized boat and for the cost of defending a frivolous lawsuit. The court subsequently granted judgment in favor of respondent for \$115 plus costs.

Appellant removed the case to district court and, following a bench trial, the district court found that respondent was overcharged for various items, but not the guide services. The court also found that there was no "merit to [respondent's] claim regarding the inadequacy of guiding services," but found that respondent was entitled to damages for the loss of personal property still in appellant's possession. The court further determined that there was no merit to appellant's claims for reimbursement for additional expenses or for loss of business. Thus, the district court granted judgment in favor of respondent in the amount of \$244 plus costs. Appellant subsequently moved for amended findings, which was denied by the district court. This appeal followed.

DECISION

A district court's findings of fact are set aside only if clearly erroneous, and "due regard shall be given to the opportunity of the [district] court to judge the credibility of

the witnesses.” Minn. R. Civ. P. 52.01. Findings of fact are clearly erroneous only if the reviewing court, when looking at all the evidence, is left with a definite and firm conviction that a mistake has been committed. *N. States Power Co. v. Lyon Food Prods., Inc.*, 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975).

Here, the \$244 judgment awarded to respondent was calculated on the court’s finding that respondent overpaid: (1) \$50 for parking; (2) \$20 for bait; (3) \$30 for the portage fee; and (4) \$74 for the permit fee. The court also awarded respondent \$70 for the loss of his propane tank and bait containers, which were still in appellant’s possession.

Appellant argues that the district court’s decision is not supported by the record. We disagree. Exhibit 4 consists of an invoice depicting the items for which respondent was charged. The invoice provides that respondent was charged a \$90 portage fee, \$74 for permits, \$20 for bait, and \$50 for parking. Respondent testified that he paid for these items in full before the camping trip, and appellant does not dispute that he received the payment. Respondent also testified that he spent additional money on bait, had to purchase the permits directly, and upon his arrival at the resort, he paid for parking. Respondent further testified that the portage fee paid by appellant was only \$60, \$30 less than the amount he paid to appellant. Appellant admitted these claims at trial. Although appellant disputes respondent’s claim that he purchased the permits, the permit purchased by respondent was entered into evidence and respondent testified that he paid \$30 for the permit. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988) (stating that appellate courts defer to district court credibility determinations). Therefore, the district court’s

findings that respondent was overcharged for the bait, permits, parking, and portage fee are supported by the record.

Appellant also argues that the district court erred in awarding respondent \$70 for the loss of personal property because respondent never asked for the items to be returned. But appellant admitted to possessing the propane tank and bait containers, despite having numerous opportunities to return these items to respondent. Respondent testified as to the value of these items, and appellant offered no conflicting evidence or testimony. Accordingly, the district court did not abuse its discretion in awarding respondent \$70 for the loss of personal property, and the \$244 judgment awarded to respondent is supported by the record.

Affirmed.