MEMORANDUM DECISION

APPELLANT PRO SE

Kendall Harlson
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Kendall Harlson,
Appellant-Plaintiff,

v.

Tech Motors and Geico Insurance,
Appellees-Defendants.

March 11, 2021

Court of Appeals Case No. 20A-SC-745

Appeal from the Washington Township Small Claims Court

The Honorable Steven G. Poore, Judge

Trial Court Cause No. 49K07-1907-SC-2715

Najam, Judge.

Statement of the Case

[1] Kendall Harlson appeals the small claims court's judgment in favor of Tech Motors on his complaint alleging damage to his vehicle. Harlson raises one

issue for our review, namely, whether the small claims court erred when it entered judgment for Tech Motors.[1]

[2] We affirm.

Facts and Procedural History

[3] On December 31, 2018, Harlson was unable to start his 2002 Isuzu Axiom SUV. After researching various repair shops, Harlson had the SUV towed to Tech Motors on January 17, 2019. Shortly thereafter, Harlson went to Tech Motors and spoke to the owner, Mario Avila. Avila told Harlson that the SUV's "electrical system had been damaged and that the battery had 'melted.'" Judgment at 2. Avila also told Harlson that Tech Motors could not repair the SUV, and he directed Harlson to remove the vehicle from the premises.

[4] Harlson then had the SUV towed to Complete Auto Electric, where a mechanic reported to Harlson that the "[b]attery has been jumped backward causing [a] wiring problem & battery melt down." *Id.* at 4. Harlson suspected that someone at Tech Motors had caused the damage. Accordingly, Harlson filed a claim with his insurance company, Geico, which denied coverage.

[5] On July 30, 2019, Harlson filed a complaint against Tech Motors and Geico in the small claims court. In that complaint, Harlson alleged as follows:

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[1] The small claims court dismissed Harlson's claims against Geico under Trial Rule 41(B), and Harlson makes no argument on that issue on appeal.

> The defendant caused irreparable damage to the plaintiff's 2002 Isuzu. The Defendant was hired to replace the starter, of which, the plaintiff [sic] backwards jumped the vehicle, causing damage to the vehicle's electrical system. The defendant denies responsibility. The plaintiff has spent over $1,000 in repairs and now the vehicle needs to go to the dealer, which cannot repair it for more than a month. The vehicle is not safe to drive, due to damages.

Id. at 1. And on September 17, Harlson filed an amended complaint alleging that Geico had refused to provide coverage for the damages to his SUV under the applicable policy.

[6] The small claims court held a bench trial that lasted six and a half hours over the course of three days in December 2019 and January 2020. During the trial, Harlson testified in detail regarding the damages to his SUV that were allegedly caused by Tech Motors, and Harlson submitted twenty-seven exhibits. Avila testified that Tech Motors had not caused any damage to Harlson's SUV. The court then permitted Harlson to "re-open his case for him to offer additional testimony." Tr. at 93. During the course of the trial, Geico's attorney argued that Harlson's policy did not cover this type of damage to the SUV, and Geico moved for involuntary dismissal under Trial Rule 41(B), which the court granted. At the conclusion of the trial, the court took the matter under advisement. On February 26, the court issued findings and conclusions and found in favor of Tech Motors on Harlson's complaint. This appeal ensued.

Discussion and Decision

[7] Harlson, *pro se*, appeals the small claims court's judgment for Tech Motors. The small claims court is the sole judge of the evidence and the credibility of witnesses, and on appeal we neither reweigh the evidence nor assess the credibility of the witnesses. *Heartland Crossing Found., Inc. v. Dotlich*, 976 N.E.2d 760, 762 (Ind. Ct. App. 2012). "If the court rules against the party with the burden of proof, as here, it enters a negative judgment that we may not reverse for insufficient evidence unless 'the evidence is without conflict and leads to but one conclusion, but the court reached a different conclusion.'" *Id.* (quoting *Eppl v. DiGiacomo*, 946 N.E.2d 646, 649 (Ind. Ct. App. 2011)).

[8] We note that Tech Motors has not filed an appellee's brief.

> When an appellee fails to file a brief, we apply a less stringent standard of review. We are under no obligation to undertake the burden of developing an argument for the appellee. We may, therefore, reverse the trial court if the appellant establishes prima facie error. "Prima facie" is defined as "at first sight, on first appearance, or on the face of it."

Deckard v. Deckard, 841 N.E.2d 194, 199 (Ind. Ct. App. 2006) (citations omitted).

[9] On appeal, Harlson asserts that the small claims court erred when it entered judgment in favor of Tech Motors on his complaint for damages. Harlson does not explain whether he seeks damages based on negligence or breach of contract, so he does not set out the elements of his claim, for which he had the

burden of proof. Rather, Harlson simply contends that the small claims court erred when it credited Tech Motors' evidence over his evidence regarding the cause of his alleged damages. In other words, Harlson asks that we reweigh the evidence and assess the credibility of witnesses, which we cannot do. *Heartland Crossing Found.*, 976 N.E.2d at 762.

[10] The evidence most favorable to the small claims court's judgment demonstrates that no one at Tech Motors had looked at Harlson's SUV until Harlson arrived. At that time, Avila inspected the SUV for the first time and found "that the electrical system had been damaged and that the battery had 'melted.'" Judgment at 2. Harlson did not present any evidence to dispute that the claimed damages to the SUV had already occurred when it was towed to Tech Motors. Harlson could only speculate that someone at Tech Motors had caused the alleged damages.

[11] We note that, while the small claims court was not required to enter findings and conclusions, *see Bowman v. Kitchel*, 644 N.E.2d 878, 879 (Ind. 1995), the court here issued a nine-page judgment that included extensive findings and conclusions. The court included details regarding each exhibit filed by Harlson. And the court explained why it believed Avila's testimony over Harlson's. It was Harlson's burden to show by a preponderance of the evidence, that is, that it was more likely than not, that Tech Motors had caused the damages he claimed. He did not meet that burden. We therefore cannot say that the small claims court clearly erred when it entered judgment in favor of Tech Motors on Harlson's complaint, and we affirm the court's judgment.

[12] Affirmed.

Riley, J., and Crone, J., concur.