

DAVID G. JONES v. EDWARD D. RATLEY and BEST ROOFING COMPANY

No. 114A05

FILED: 7 OCTOBER 2005

Small Claims--de novo appeal to district court--applicable procedures--necessity for findings and conclusions

The decision of the Court of Appeals affirming a district court order requiring defendant to repay to plaintiff \$2000 that plaintiff allegedly paid to defendant in error is reversed for the reasons stated in the dissenting opinion in the Court of Appeals that (1) the informal processes of the small claims court do not continue in a de novo appeal to the district court; (2) the district court erred by failing to set forth proper findings of fact and conclusions of law regarding whether plaintiff had been obligated to pay \$2,000 to defendant; and (3) the district court must address the issue as to whether plaintiff should have had notice of a voluntary dismissal taken in an earlier action by the present defendant.

Appeal pursuant to N.C.G.S. § 7A-30(2) from the decision of a divided panel of the Court of Appeals, 168 N.C. App. 126, 607 S.E.2d 38 (2005), affirming a judgment entered on 8 August 2003 by Judge Thomas G. Foster, Jr. in District Court, Guilford County. Heard in the Supreme Court 12 September 2005.

No appearance or brief for plaintiff-appellee.

Douglas S. Harris for defendant-appellants.

PER CURIAM.

For the reasons stated in the dissenting opinion, the decision of the Court of Appeals is reversed and remanded.

REVERSED AND REMANDED.