

IN THE COURT OF APPEALS OF TENNESSEE

EASTERN SECTION

FILED
May 20, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

ROBERT D. DAVIS and)	BRADLEY COUNTY
CINDI DAVIS)	03A01-9707-CV-00247
)	
Plaintiffs-Appellants)	
)	
v.)	HON. JOHN B. HAGLER,
)	JUDGE
)	
GARY B. ERWIN, EDGAR H. PIERCE,)	
LLOYE HAMILTON and BOYD)	
WILLIAMS, Both Individually)	
and d/b/a COLDWELL BANKER)	
HAMILTON and WILLIAMS REALTY)	
)	
Defendants-Appellees)	AFFIRMED AND REMANDED

TERRI L. LACEY OF CLEVELAND FOR APPELLANTS

JOSEPH R. WHITE and CARL E. SHILES, JR., OF CHATTANOOGA FOR APPELLEES

O P I N I O N

Goddard, P.J.

Robert D. Davis and Cindi Davis appeal a summary judgment granted against them in favor of Edgar H. Pierce, Lloye Hamilton and Boyd Williams, both individually and d/b/a under a partnership named Coldwell Banker Hamilton and Williams Realty.

Although the judgment does not dispose of the case as

to Gary B. Erwin, the Trial Judge made the summary judgment a final one pursuant to Rule 54 of the Tennessee Rules of Civil Procedure.

The Plaintiffs' suit was predicated upon a dog bite suffered by Mr. Davis, resulting in injuries to him and loss of consortium to his wife.

Edgar H. Pierce owned a house and lot which was managed by Mr. Hamilton, Mr. Williams, and their Real Estate Company. It was leased to Gary B. Erwin, the owner and trainer of guard dogs. The guard dog in question was kept on the premises, although the dog bite occurred on nearby property. Under the undisputed proof, Mr. Pierce did not know Mr. Erwin was keeping dogs on the property, and although Mr. Hamilton and Mr. Williams knew that he was they did not know that he was training guard dogs, nor the propensity of the dog which bit Mr. Davis.

Our review of the record persuades us that, under the authority of McKenna v. Jackson, an unreported opinion of this Court filed in Nashville on March 29, 1996, this is an appropriate case for affirmance under Rule 10(a) of this Court.

The judgment of the Trial Court is accordingly affirmed and the cause remanded for collection of costs below. Costs of appeal are adjudged against the Plaintiffs and their surety.

Houston M. Goddard, P.J.

CONCUR:

Herschel P. Franks, J.

Don T. McMurray, J.