

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

KEN LAPPONESE,)	No. ED99023
)	
Respondent,)	Appeal from the Circuit Court
)	of St Charles County
vs.)	
)	Honorable Ted Clint House
CARTS OF COLORADO, INC.,)	
)	
Appellant.)	FILED: November 26, 2013

Carts of Colorado, Inc. (“Carts of Colorado”) appeals from the judgment of the trial court entered upon a jury verdict in favor of Ken Lappone (“Lappone”) on his claim for damages relating to unpaid sales commissions. Sections 407.911 et seq. of the Missouri Merchandising Practices Act allows for the recovery of statutory damages and attorneys’ fees should sales commissions not be paid following the termination of the relationship between a sales representative and principal. Carts of Colorado challenges the inclusion of statutory damages and attorneys’ fees in the damages awarded to Lappone. Carts of Colorado maintains that no contract was terminated as required by Section 407.912 and that Lappone was not “terminated” within the meaning of Section 407.913 because he voluntarily quit his employment. Lastly, Carts of Colorado contests the award of attorneys’ fees to Lappone, claiming that the award included attorneys’ fees incurred by Lappone defending against Carts of Colorado’s separate counterclaim.

AFFIRMED in part and REVERSED in part.

Division V holds: Because the termination of Lappone’s relationship with Carts of Colorado falls within the scope of Sections 407.912 and 407.913, we affirm the award of damages. However, because we are unable to determine from the record before us how the trial court calculated the attorneys’ fee awarded to Lappone, we reverse and remand for findings of fact and conclusions of law on the issue of attorneys’ fees.

Opinion by: Kurt S. Odenwald, J., Robert M. Clayton, III, C.J., and Roy L. Richter, J., Concur.

Attorney for Appellants: Peter J. Dunne, Robyn Greifzu Fox and Robert T. Plunkert

Attorney for Respondent: Jill R. Rembusch

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.