

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KENNETH JOHNSON, RESPONDENT

vs.

RENT-A-CENTER and KELLI STANGLE, APPELLANTS

DOCKET NUMBER WD76863

Date: November 4, 2014

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Patrick W. Campbell, Judge

Appellate Judges:

Division One: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Anthony Rex Gabbert, J.

Attorneys:

Brent A. Sumner, for Respondent

Jonathan W. Davis, for Appellants

Mark D. Ware, Co-counsel for Appellants

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
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KENNETH JOHNSON, RESPONDENT

v.

RENT-A-CENTER and KELLI STANGLE, APPELLANTS

WD76863

Jackson County, Missouri,

Before Division One Judges: Joseph M. Ellis, P.J., Karen King Mitchell, J. and Anthony Rex Gabbert, J.

Appellants Rent-A-Center and Kelli Stangle appeal from an order entered in the Circuit Court of Jackson County denying their Motion to Compel Arbitration and Stay Action in a tort case filed against them by Kenneth Johnson. Appellants' motion to compel arbitration asserted that the issue of whether Johnson's claims should be subject to the arbitration agreements at issue was an issue that must be determined by an arbitrator, rather than the court, under the express terms of the arbitration agreements between the parties. They further argued that, even if the court could properly determine the issue of arbitrability, the claims asserted in Johnson's petition were, indeed, arbitrable under the broad terms of the arbitration agreements. The trial court ultimately found that the Johnson's claims were not arbitrable and denied the motion on that basis without addressing the threshold issue of whether the court or an arbitrator should be determining the question of arbitrability.

REVERSED AND REMANDED.

Division One holds:

- (1) Where an arbitration agreement contains a written provision agreeing to arbitrate gateway questions of arbitrability, the United States Supreme Court in *Rent-A-Center v. Jackson*, 561 U.S. 63, 130 S.Ct. 2772, 177 L. Ed. 2d 403 (2010), has held that, unless the party opposing arbitration has challenged the delegation provision specifically, that provision is severable from the arbitration agreement as a whole and must be treated as valid and enforced, leaving any challenge to the validity of the arbitration agreement as a whole to the arbitrator. In other words, even when a litigant has specifically challenged the validity of an agreement to arbitrate, he must submit that challenge to the arbitrator unless he has lodged an objection to the particular line in the agreement that purports to assign such challenges to the arbitrator.

- (2) Regardless of whether this Court agrees with the reasoning expressed therein, we are bound by the Supreme Court's decision in *Jackson* and have no authority to overrule that decision.
- (3) The arbitration agreements in the case at bar clearly and explicitly provide that the arbitrator has exclusive authority to resolve any dispute related to arbitrability and the scope of the agreements.
- (4) Because Respondent did not assert any specific challenge to the delegation provisions contained in the arbitration agreements, under *Jackson*, the trial court erred in denying Appellant's motion to compel arbitration so that an arbitrator can determine the threshold issues of arbitrability involved in this case.

Opinion by Joseph M. Ellis, Judge

Date: November 4, 2014

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