

1/6/81

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE  
WESTERN DISTRICT OF WISCONSIN

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IN THE MATTER OF:

IN BANKRUPTCY

LAUREN T. FLATEN,  
Plaintiff/Debtor

No. 80-01310  
Chapter 13

vs.

ROYAL CREDIT UNION  
Defendant/Creditor  
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FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER  
RE DEBTOR'S APPLICATION TO AVOID LIEN

The debtor in the above entitled matter duly filed a Chapter 13 proceedings herein on September 5, 1980, and on said date Lawrence J. Kaiser was appointed the Interim Trustee. Thereafter the debtor filed an application to avoid a certain lien of the Royal Credit Union and a hearing thereon was scheduled for December 1, 1980, and thereafter adjourned to December 15, 1980, at which time the debtor appeared in person and by Mart W. Swenson, his attorney, and Royal Credit Union appeared by John L. Frank, its attorney; and the Court having heard the respective contentions of the parties relative to avoiding the lien, and having duly considered the briefs filed herein, and the arguments of counsel, and from all of the record herein, makes the following

FINDINGS OF FACT

1. That said debtor filed a petition under Chapter 13 as above stated.
2. That the Trustee was duly appointed as above stated.
3. That an application to avoid lien was duly filed by Royal Credit Union and a hearing thereon was noticed by the Court.

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4. That on December 1, 1980, Royal Credit Union duly filed an objection to the application to avoid lien claiming that said lien had been created by a contract between the parties on or about June 12, 1978, and prior to the passage and signing of the 1978 Bankruptcy Reform Act on or about November 6, 1978, and denying that the automobile claimed by the debtor was a tool of trade.

5. That from all of the evidence it appears that the items listed in the security agreement and claimed exempt by the debtor are items upon which a lien may be lifted.

6. That said lien was not for purchase money of any of said property, and that the existence of defendant's lien on the debtor's household goods and personal goods impairs the exemption to which the debtor would be entitled under 11 U.S.C. Section 522(b).

7. That the defenses raised by Royal Credit Union are controlled by the decision In the Matter of Ted Winston Primm, 6 B.R. 142. That based upon the decision in said matter as to the validity of the law and applying to Chapter 13, this case is controlling.

CONCLUSIONS OF LAW

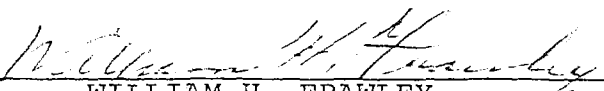
That the Court enter an order granting the claim for avoidance of lien as above described.

O R D E R

NOW, THEREFORE, IT IS ORDERED: That the debtor's application for avoidance of lien under 11 U.S.C. 522(f) as to the property described in said application be and the same is hereby granted without costs to either party.

Dated: January 6, 1981.

BY THE COURT:

  
WILLIAM H. FRAWLEY  
BANKRUPTCY JUDGE