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UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WISCONSIN

FILED

JUL 17 1986

CLERK

U.S. BANKRUPTCY COURT

In re:

Case Number:

STEPHEN S. JOHNSON
a/k/a Steve S. Johnson
d/b/a Rainbow Pastry Shop
d/b/a Rainbo Pastry Shop
d/b/a Rainbow Bakery
d/b/a Rainbo Bakery

WF7-85-01941

Debtor.

ORDER

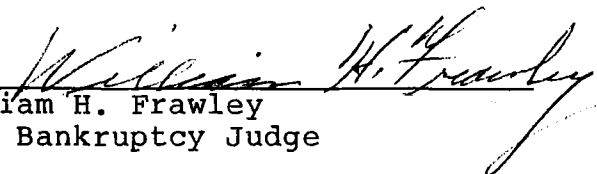
The court having this day entered its memorandum opinion, findings of fact, and conclusions of law;

NOW, THEREFORE, IT IS ORDERED that Park City Credit Union's objection to the debtor's motion for lien avoidance with respect to the television, table and two chairs, lawn tractor, snow blower, tool chest and tools, table saw, coffee urn, and air compressor, is hereby denied.

IT IS FURTHER ORDERED that Park City Credit Union's objection to the debtor's motion to avoid liens with respect to the transit and battery charger is hereby sustained.

Dated: July 17, 1986.

BY THE COURT:


William H. Frawley
U.S. Bankruptcy Judge

cc: Attorney Kevin Klein
Attorney Roger Deffner

ca
7-17-86

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Debtor.

MEMORANDUM OPINION,
FINDINGS OF FACT, AND CONCLUSIONS OF LAW

The debtor, by Kevin Klein, has brought this motion pursuant to 11 U.S.C. § 522(f) seeking to avoid liens on property claimed as exempt. The Park City Credit Union (PCCU), by Roger Deffner, objects to the motion. A hearing was held on this matter on May 14, 1986, and the issues have been submitted for determination by briefs.

The debtor is requesting lien avoidance with respect to certain items of property in which PCCU has a nonpossessory, nonpurchase-money security interest. The debtor claims the property as exempt under § 815.18 of the Wisconsin Statutes. 11 U.S.C. § 522(b). PCCU bases its objection solely on the argument that the specific items of property are not exempt under the Wisconsin Statutes.

The items of property that are the subject of this dispute include:

| <u>Item</u> | <u>Exemption Statute</u> | <u>Independent Appraisal</u> | <u>Bank's Inside Appraisal</u> |
|----------------------|--------------------------|------------------------------|--------------------------------|
| TV | 815.18(5) | \$ 35.00 | \$ 160.00 |
| Table and two chairs | 815.18(5) | 110.00 | not appraised |
| Lawn tractor | 815.18(6) | under 1,500.00 | 750.00 |
| Snow blower | 815.18(6) | 75.00 | 325.00 |
| Tool chest & tools | 815.18(6) | 125.00 | 600.00 |
| Table saw | 815.18(6) | 100.00 | 275.00 |
| Transit | 815.18(6) | 75.00 | 275.00 |
| Battery charger | 815.18(6) | 75.00 | not appraised |
| Coffee urn | 815.18(8) | 40.00 | not appraised |
| Air compressor | 815.18(8) | 100.00 | 150.00 |

The debtor obtained his values with respect to this property from the independent appraisal of an experienced appraiser, Dick Norum. PCCU bases its argument entirely on internal appraisal. It is the conclusion of the court that the independent appraisal of Dick Norum accurately reflects the value of these items of property. The court will use this appraisal for the purposes of this motion.

Section 815.18(5) of the Wisconsin Statutes provides:

(5) WEARING APPAREL, HOUSEHOLD GOODS AND FIREARMS. All wearing apparel of the debtor and his family; jewelry and other articles of personal adornment not exceeding \$400 in value; one television set; one radio; all beds, bedsteads and bedding kept and used for the debtor and his family; all stoves and appendages put up or kept for the use of the debtor and his family; all cooking utensils and all other household furniture not herein enumerated, not exceeding \$200 in value; and one gun, rifle or other firearm, not exceeding \$50 in value.

Clearly the television set constitutes exempt property of the debtor. The table and two chairs have a value of less than \$200 and are also exempt property.

Section 815.18(6) of the Wisconsin Statutes provides:

(6) LIVESTOCK, FARM IMPLEMENTS AND AUTOMOBILE. Eight cows, 10 swine, 50 chickens, 2 horses or 2 mules, one automobile of the debtor not exceeding \$1,000 in value, 10 sheep, and the wool from the same, either in the raw material or manufactured into yarn or cloth; the necessary food for all the stock mentioned in this section for one year's support, either provided or growing or both, as the debtor may choose; also one wagon, cart or dray, one sleigh, one plow, one drag, one binder, one tractor not to exceed in value the sum of \$1,500, one corn binder, one mower, one springtooth harrow, one disc harrow, one seeder, one hay loader, one corn planter, one set of heavy harness and other farming utensils, also small tools and implements, not exceeding \$300 in value.

It is the opinion of the court that a lawn tractor is a "tractor" within the meaning of this statute. The value of the tractor is less than \$1,500. Therefore, the tractor is exempt property. The aggregate value of the snow blower (\$75), tool chest and tools (\$125), and the table saw (\$100), does not exceed \$300. Hence, the debtor may claim these items of property as exempt. The debtor cannot claim the transit or battery charger as exempt under this section in addition to the other items because the aggregate value would exceed the \$300 limitation. The debtor may not avoid PCCU's lien on the battery charger or transit.

Section 815.18(8) of the Wisconsin Statutes provides:

(8) TOOLS FOR TRADE. The tools, implements and stock in trade of any mechanic, miner, merchant, trader or other

person, used or kept for the purpose of carrying on his trade or business, not exceeding two hundred dollars in value.

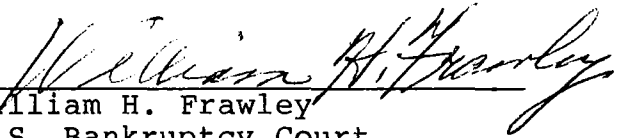
The value of the coffee urn is \$40. The value of the air compressor is \$100. The aggregate value does not exceed \$200. This property constitutes tools or implements of the debtor's trade. Thus, the debtor may avoid PCCU's lien on this property.

It is the conclusion of the court that the debtor's motion for lien avoidance should be granted as to all items of property involved in this dispute except the transit and battery charger.

This opinion shall constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052.

Dated: July 17, 1986.

BY THE COURT:


William H. Frawley
U.S. Bankruptcy Court