

IN THE COURT OF APPEALS OF IOWA

No. 0-717 / 10-0614
Filed December 22, 2010

FECO, LTD.,
Plaintiff-Appellant,

vs.

**HIGHWAY EQUIPMENT COMPANY,
INC.,**
Defendant-Appellee.

Appeal from the Iowa District Court for Fayette County, Richard D. Stochl,
Judge.

Equipment dealer appeals judgment in favor of equipment supplier.

REVERSED AND REMANDED.

R. Ronald Pogge of Hopkins & Huebner, P.C., Des Moines, and J.
Michael Dady and Jeffrey S. Haff of Dady & Gardner, P.A., Minneapolis,
Minnesota, for appellant.

Samuel I. Kreamer of Kreamer Law Firm, P.C., West Des Moines, for
amicus curiae Iowa-Nebraska Farm Equipment Association, Inc.

Stephen J. Holtman, David A. Hacker, and Jason M. Steffens of Simmons
Perrine Moyer Bergman PLC, Cedar Rapids, for appellee.

Heard by Eisenhauer, P.J., and Potterfield and Doyle, JJ.

EISENHAUER, P.J.

FECO, Ltd, appeals from a ruling denying its claim for damages against Highway Equipment Company, Inc. (Highway Equipment). FECO claims the court misinterpreted Iowa Code section 322F.8(1) (2001). We reverse and remand.

For many years, FECO was an agricultural equipment dealer for Highway Equipment. The October 1, 1996 agreement between Highway Equipment, as supplier, and FECO, as dealer, constitutes a “dealership agreement” as defined by Iowa Code section 322F.1(3) (2003).¹

By letter dated September 16, 2002, Highway Equipment cancelled its agricultural dealership agreement with FECO. Highway Equipment admits it did not have good cause, as defined by Chapter 322F, for terminating its dealership agreement with FECO. See Iowa Code § 322F.1(5) (2003). Highway Equipment also admits it did not provide FECO with the notice of termination required by Iowa law. See *id.* § 322F.2 (2001).

In December 2006, FECO filed suit against Highway Equipment seeking monetary damages under Chapter 322F for wrongful termination of the dealership agreement.² Highway Equipment moved for summary judgment

¹ The definitional section was amended and renumbered, effective July 1, 2002. See 2002 Iowa Acts ch. 1011, §§ 8, 9, 10. Therefore, we cite the 2003 Code when referring to the definitional section. Otherwise, we cite to the 2001 Code in effect at the time of Highway Equipment’s termination of the contract.

² Prior to this case, in June 2003, Highway Equipment filed suit against FECO for patent infringement. See *Highway Equipment Co. v. FECO, Ltd.*, 469 F.3d 1027 (Fed. Cir. 2006).

arguing Chapter 322F does not provide for monetary damages as a remedy for termination without proper notice and/or good cause. In March 2007, the district court denied Highway Equipment's motion.

After an April 2009 bench trial, in March 2010, the district court noted:

The legislative purpose of 322F.2 [notice of termination] is clear. . . . [T]he act is intended to protect farm dealers, who are generally small business people, from losing the value of their business if the manufacturer cuts them off for no reason or for a bad reason.

The court, however, ruled "money damages for termination without good cause or termination without proper notice are not available to FECO under Iowa Code Chapter 322F." FECO appeals.

We review the trial court's interpretation of a statute for correction of errors at law. *Norwest Credit, Inc. v. City of Davenport*, 626 N.W.2d 153, 155 (Iowa 2001). Our primary goal in interpreting Chapter 322F "is to give effect to the intent of the legislature." *In re Det. of Betswoth*, 711 N.W.2d 280, 283 (Iowa 2006). We look to the statute as a whole in ascertaining intent. *Id.*

Monetary damages are authorized in Iowa Code section 322F.8(1) (2001):

A dealer [FECO] may bring a legal action against a supplier for damages sustained by the dealer as a consequence of the supplier's *violation of this chapter*. A supplier violating this chapter shall compensate the dealer for damages sustained by the dealer as a consequence of the supplier's *violation*

(Emphasis added.) Iowa Code section 322F.1 (2003), listing numerous definitions for Chapter 322F, does not contain a definition for the term "violation." "Absent a statutory definition . . . words chosen by the legislature are given their ordinary and common meaning" *Auen v. Alcoholic Beverages Div.*, 679

N.W.2d 586, 590 (Iowa 2004). However, Iowa Code section 322F.7 is titled “violations.” It states “[a] supplier violates this chapter if the supplier does any of the following,” and it contains a litany of seven violations of the chapter. Iowa Code § 322F.7 (2001).

FECO argues “violation of this chapter” by its plain terms provides for damages sustained by violations of Chapter 322F, including violations of its specific and detailed notice/opportunity to cure and good cause provisions. See Iowa Code §§ 322F.1(5) (2003) (good cause), 322F.2 (2001) (notice of termination). Highway Equipment argues monetary damages are only available when its violation is one of the “violations” specifically listed in Iowa Code section 322F.7 (2001). Highway Equipment claims none of those subsections includes termination without good cause and/or without proper notice. Highway Equipment’s interpretation was adopted by the trial court.

When we view the chapter as a whole and consider the plain language of section 322F.8(1), we do not find Highway Equipment’s argument persuasive. See *Auen*, 679 N.W.2d at 590 (stating “we determine legislative intent from the words chosen by the legislature, not what it should or might have said”). Section 322F.8(1), “Supplier liability,” does not state damages are authorized “as a consequence of the supplier’s *violation of 322F.7*,” but states damages are authorized “as a consequence of the supplier’s *violation of this chapter*.” See Iowa Code § 322F.8(1) (2001) (emphasis added). Because section 322F.8(1) states “this chapter” and does not state “section 322F.7,” we conclude the plain meaning of section 322F.8(1) shows the legislature intended the damages

remedy to be inclusive of any action of a supplier in violation of “this chapter.” See *id.* This would include violations of the good cause and notice of termination provisions contained in “this chapter.” See *id.* §§ 322F.1(5) (2003) (good cause), 322F.2 (2001) (notice of termination). Under the “guise of construction” we will not “change the meaning of a statute” by interpreting the words “this chapter” to mean “section 322F.7.” See *Auen*, 679 N.W.2d at 590.

Further support for our conclusion is found in the fact section 322F.7 is not a definition section; rather, it contains a list of prohibited activities. See Iowa Code § 322F.7 (2001). Also, section 322F.7 does not contain any limiting language indicating the prohibited activities listed therein are the *exclusive* violations of “this chapter.” See *id.* For example, section 322F.7 does not state: “For the purposes of this chapter, “violation” means” See *id.* Neither does it state: “A supplier violates this chapter *only* if the supplier does any of the following.” See *id.* Highway Equipment’s statutory interpretation would rewrite section 322F.7 to add the word “only.”

Highway Equipment’s reference to similar dealer-agreement statutes in other states does not change our analysis.

We conclude the prohibited activities listed in section 322F.7 are in addition to, and not a limitation of, activities constituting “a violation of this chapter” under section 322F.8(1). See *id.* §§ 322F.7, .8(1) (2001). Accordingly, Highway Equipment’s termination without good cause and without the required notice to cure is a violation of Chapter 322F entitling FECO to damages proven to have been suffered as a consequence of Highway Equipment’s unlawful

termination. We remand for a determination of damages on the record already made.

REVERSED AND REMANDED.