

IN THE SUPREME COURT OF THE STATE OF NEVADA

RICHARDSON CONSTRUCTION, INC.,
Appellant

vs.

THE STATE OF NEVADA, EX REL
OFFICE OF LABOR COMMISSIONER
AND TERRY JOHNSON, IN HIS
CAPACITY AS LABOR
COMMISSIONER OF THE STATE OF
NEVADA,
Respondents.

No. 43888

FILED

JUL 05 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order that granted summary judgment to respondents. Eighth Judicial District Court, Clark County; David Wall, Judge.

Pursuant to NRS 608.150 and NRS 607.170, appellant Richardson Construction, Inc., a general contractor, remitted to respondent Nevada State Labor Commissioner approximately \$80,000 for a subcontractor's failure to pay certain laborers the prevailing wage. The Labor Commissioner, in turn, distributed the funds to the wage claimants. Neither Richardson nor the Labor Commissioner, however, was able to locate all of the potential wage claimants to satisfy the claims, resulting in unclaimed wages.

Richardson instituted the underlying action apparently seeking to recover the unclaimed amounts from the Labor Commissioner. Thereafter, respondents filed a motion to dismiss or for summary judgment primarily arguing that, because respondents delivered the unclaimed wages to the Unclaimed Property Division of the Nevada State

Treasury, under NRS 120A.340, the Labor Commissioner was relieved of all liability with respect to the unclaimed wages. Richardson opposed the motion, requesting leave to amend its complaint, and moving for summary judgment. The district court granted summary judgment to respondents and denied Richardson's motions. Richardson appeals.

This court reviews orders granting summary judgment de novo.¹ Summary judgment was appropriate if the pleadings and other evidence on file, viewed in a light most favorable to Richardson, demonstrate that no genuine issue of material fact remained in dispute and that respondents were entitled to judgment as a matter of law.²

Having reviewed the record in light of this standard, we conclude that the district did not err when it granted summary judgment to respondents. Specifically, NRS 607.170(3) generally provides that unclaimed money held by the Labor Commissioner for one year or more is "presumed abandoned under NRS 120A.220." And property presumed abandoned under NRS 120A.220 must be delivered to the Unclaimed Property Division.³ Significantly, then, under NRS 120A.340(2), any person who pays or delivers abandoned property to the Unclaimed Property Division is relieved of all liability to the extent of the property's value for any claim with respect to the property.

Here, after holding the unclaimed wages for over one year, respondents properly turned over the unclaimed wages to the Unclaimed Property Division. Under NRS 120A.340(2), then, respondents are

¹See Wood v. Safeway, Inc., 121 Nev. __, __, 121 P.3d 1026, 1029 (2005).

²Id.

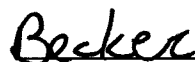
³See NRS 120A.320.

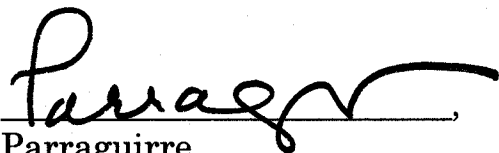
relieved of all liability with respect to the unclaimed wages, including Richardson's underlying action attempting to recover the unclaimed amounts from the Labor Commissioner. Thus, the district court did not err when it granted summary judgment to respondents and correspondingly denied Richardson's summary judgment motion.

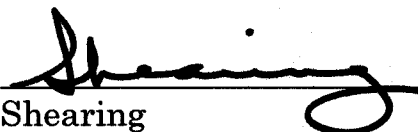
As regards the district court's denial of Richardson's motion for leave to amend its complaint, a motion for leave to file an amended complaint is addressed to the district court's discretion and the district court's decision to deny a party leave to amend will not be overturned on appeal absent an abuse of that discretion.⁴ Having considered the record in light of this standard, we conclude that the district court's denial of Richardson's request for leave to file an amended complaint was not an abuse of discretion.

Accordingly, we affirm the judgment of the district court.

It is so ORDERED.⁵

 _____, J.
Becker

 _____, J.
Parraguirre

 _____, Sr. J.
Shearing

⁴See Stephens v. Southern Nevada Music Co., 89 Nev. 104, 105, 507 P.2d 138, 139 (1973).

⁵The Honorable Miriam Shearing, Senior Justice, participated in the decision of this matter under a general order of assignment entered January 6, 2006.

cc: Hon. David Wall, District Judge
Howard Roitman, Settlement Judge
Parker Nelson & Arin, Chtd.
Attorney General George Chanos/Las Vegas
Clark County Clerk