Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2005-211

MAY TERM, 2006

Ann Johnston and Charlotte Rancourt	}	APPEALED FROM:
	}	
v.	}	Washington Superior Court
	}	
Thia Artemis	}	
	}	DOCKET NO. 708-12-04 Wncv

Trial Judge: Matthew I. Katz

In the above-entitled cause, the Clerk will enter:

Defendant Thia Artemis appeals pro se from the trial court=s decision in favor of plaintiffs Ann Johnston and Charlotte Rancourt in this contract dispute. She asserts, among other claims, that the trial court erred in: (1) expediting the trial and denying enforcement of her discovery request; and (2) concluding that there had been an accord and satisfaction of the contract. We affirm.

Plaintiffs own a small farm. In June 2004, they entered into a written agreement with defendant, an experienced horse trainer. The parties agreed that defendant would live with plaintiffs in the finished basement area of their home; she would care for one of the plaintiff=s horses and she could use the barn and land to develop her own horse business. Defendant would also assist in laying out pastures and fences, and would make barn improvements to make the stable functional and usable. Defendant would earn her rent at the rate of $35 per hour doing skilled horse training work and $10 per hour for other labor. Defendant was to pay $500 per month for her housing and $200 for a stall in the barn. No

horses were ever on the property.

The situation between the parties devolved. In December 2004, plaintiffs filed an ejectment action against defendant. Defendant counterclaimed, raising allegations of retaliation, habitability violations, wrongful distraint, intentional infliction of emotional distress, and violation of the Consumer Fraud Act. After a trial, the court found in favor of plaintiffs. It made the following findings. Defendant moved in and began interfering with plaintiffs= management of their property. Defendant began to reduce the amount of work that she did toward her rent obligation. By September 2004, rent was no longer being paid and defendant had ceased doing the work envisioned by the June agreement.

The parties engaged in mediation in an attempt to resolve their disputes. In October 2004, they signed a mediated agreement. At the time of the agreement, defendant had gone at least two months without paying toward her rent, either through labor or otherwise. She had become disruptive around the property. Pursuant to the terms of the agreement, plaintiffs paid defendant $2,550; defendant was allowed to remain living on the property through the end of December 2004, and she was entitled to use the barn/stable through the following June.

The court concluded that the mediated agreement constituted an accord and satisfaction of the June agreement. It explained that the agreement clearly manifested the parties= intent to resolve all parts of their dispute and to transcend their prior agreements. The court found that the only reasonable interpretation of the mediated agreement was that payment to defendant constituted satisfaction of any claims she might have harbored against plaintiffs. The court rejected defendant=s assertion that she had been coerced during the mediation process, and found no basis to relieve her of the agreement that she had signed and for which she was paid a substantial sum. The court concluded that plaintiffs were entitled to a writ of possession.

The court rejected all of defendant=s counterclaims. It found no support for her claim that the premises were inhabitable, nor that plaintiffs had prevented her from operating a horse business. It similarly rejected her claim of intentional infliction of emotional distress and her assertion that she was entitled to additional compensation for labor done in August and September. Finally, it rejected her claims that plaintiffs breached their obligation to provide her a reference and that they caused her to lose any business from the date of the mediated agreement. Defendant appealed.

Defendant first argues that she was denied due process because the trial was held two weeks after she requested

legal representation and declared herself in forma pauperis. Defendant did not raise this argument below. She did not object to the trial schedule, nor did she request a continuance. She waived this argument and therefore we do not address it on appeal. See Bull v. Pinkham Eng=g Assocs., 170 Vt. 450, 459 (2000) (AContentions not raised or fairly presented to the trial court are not preserved for appeal.@).

Defendant next asserts that the court erred in denying enforcement of her subpoena duces tecum, which sought financial evidence from plaintiffs. She argues that this information was relevant to her counterclaim for retaliatory eviction. The financial information that defendant requested included, among other things, a request for Afull financial disclosure of plaintiffs= current worth including (but not limited to) all properties and investments . . . in any and all locations; the current property value of [plaintiffs= real property] after all improvements completed mid-September >04 ; [and] all accounts, stocks, investments, etc. current value.@ Plaintiffs filed a pre-trial motion to quash this part of defendant=s subpoena, asserting that the requested information was irrelevant, unduly burdensome, and that there was insufficient time to gather the requested information. Defendant did not oppose this motion, nor did she file a pre-trial motion to compel. She brought the issue up at the end of trial, and the court explained that the information she requested would not ordinarily be relevant, nor would the court ordinarily order it disclosed. As the court explained, plaintiffs= ability to pay defendant was not at issue in the trial. Ultimately, post-trial, and after it had issued its decision, the trial court denied plaintiffs= motion to quash as moot. Defendant then filed a Amotion to allow continuation of investigation,@ and asked the court to mandate the disclosure of the financial information that she had requested from plaintiffs. The court denied her request, explaining that defendant had full opportunity to present her evidence at trial. We agree, and we find no abuse of discretion in the court=s actions. The information that defendant requested was irrelevant, and she failed to properly pursue her claim of error below.

Defendant next argues that the trial court erred in finding an accord and satisfaction of the June 2004 contract based on the mediation agreement. She asserts that plaintiffs= obligations to her under the original contract remained intact and that plaintiffs breached that agreement.

We find no error in the court=s decision. AAn accord and satisfaction is a method of discharging a contract, or settling a cause of action arising either from a contract or tort, by substituting for such contract or cause of action an agreement for the satisfaction thereof and an execution of such substituted agreement.@ Beattie v. Gay=s Express, Inc., 112 Vt. 131, 136 (1941). The trial court concluded that the parties plainly intended the October 2004 agreement to fully settle their disputes with respect to the June 2004 agreement. We agree. See Murphy v. Stowe Club Highlands, 171 Vt. 144, 152-53 (2000) (Supreme Court will sustain trial court=s construction of a contract if it is reasonable). As the trial court explained, the parties went to a mediator to find an agreeable way to end their relationship. The

agreement provided for a termination of defendant=s residential rights and the eventual termination of her stable access rights, which were the ties between plaintiffs and defendant. The mediated agreement also provided for a substantial payment from plaintiffs to defendant under circumstances where defendant owed money to plaintiffsCshe was living on their property and not paying rent and would continue to do so. As the trial court stated, the only reasonable interpretation of this agreement is that plaintiffs= payment to defendant constituted satisfaction of any claims that she may have harbored against them. Defendant offers no compelling basis for reaching a contrary conclusion.

The trial court did not err in dismissing defendant=s counterclaims. As noted above, the court discounted defendant=s testimony and it found defendant=s claims devoid of evidentiary support. The court=s findings are supported by the record and we will not disturb its assessment of the evidence on appeal. See N.A.S. Holdings, Inc. v. Pafundi, 169 Vt. 437, 438 (1999) (Supreme Court will uphold the trial court=s factual findings unless, taking the evidence in the light most favorable to the prevailing party, and excluding the effect of modifying evidence, there is no reasonable or credible evidence to support them); Kanaan v. Kanaan, 163 Vt. 402, 405 (1995) (trial court=s findings entitled to wide deference on review because it is in unique position to assess the credibility of witnesses and weigh the evidence presented). Finally, we find no merit in defendant=s assertions that the court was biased in favor of one of the plaintiffs because she was handicapped, or that the court issued its decisions in this case in an unfair or improper manner. There is no record support for defendant=s assertion that the trial court issued an oral order at the end of trial awarding her renewed access to the equine business on plaintiff=s property, or that the court erred by refusing to enforce this alleged oral order.

We have considered all of the arguments discernable in defendant=s brief and find them all without merit. To the extent defendant raises other arguments on appeal, her brief is so inadequate that we cannot clearly discern specific appealable issues from defendant=s general dissatisfaction with the result below. See Johnson v. Johnson, 158 Vt. 160, 164 n.* (1992) (Supreme Court will not consider arguments not adequately briefed). We have not considered those arguments presented by defendant that are based on facts outside the record, such as her reference to a pending worker=s compensation claim. Hoover v. Hoover, 171 Vt. 256, 258 (2000) (Supreme Court=s review on appeal is confined to the record and evidence adduced at trial; Court cannot consider facts not in the record).

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

Marilyn S. Skoglund, Associate Justice

Brian L. Burgess, Associate Justice