

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 10, 2003

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 02-2476

Cir. Ct. No. 02-SC-1277

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

CHARLIE SISLO,

PLAINTIFF-APPELLANT,

V.

AMERICINN MOTEL & SUITES,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Wood County:
JAMES M. MASON, Judge. *Affirmed.*

¶1 VERGERONT, P.J.¹ Charlie Sislo appeals the trial court's order dismissing his small claims complaint in which he sought \$100 from AmericInn Motel & Suites. The complaint alleged that AmericInn had represented that it had a sauna when, in fact, there was no sauna at the motel's location. We affirm.

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2001-02). All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

¶2 Sislo testified that the Internet site for AmericInn at Wisconsin Rapids states it has a sauna available, and he therefore made reservations; but, after staying there, he learned it did not have a sauna. He stayed there two nights because all the other motels in the city were booked. Each night at the motel cost \$64.01 and he was seeking a refund for one night, plus other costs and interest, which he determined added up to \$100. There was also evidence of another statement he had made that an employee at the motel told him there was a sauna and in that statement he had not mentioned he had learned this on the Internet.

¶3 The general manager at the motel testified that the website for the motel does not advertise a sauna; that the motel records show that Sislo did not make a reservation by telephone, but registered as a walk-in. She also testified that she trains the front desk employees and she was aware of none of those employees telling guests that there was a sauna located at the motel, but that the employees did tell guests that a sauna the motel guests could use was available three blocks down the street at a fitness center.

¶4 The court concluded that the manager's testimony was more credible than Sislo's and that Sislo had not proved by a preponderance of the evidence that he made a reservation relying on a representation that there was a sauna on site at the motel.

¶5 We do not set aside the findings of fact made by a trial court unless they are clearly erroneous, and we give due regard to the opportunity of the trial court to judge the credibility of the witnesses. WIS. STAT. § 805.17(2). The testimony of Sislo had some internal inconsistencies, and it also conflicted with the testimony of the motel manager. It was for the trial court to resolve those inconsistencies and it did. The court's findings of facts are supported by the

evidence and are not clearly erroneous. Accordingly, we affirm the order dismissing Sislo's complaint.

By the Court.—Order affirmed.

This opinion will not be published. WIS. STAT. RULE 809.23(1)(b)4.

