

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 1316

CHARLES H. THIBODEAUX

VERSUS

MARITIME SYSTEMS, INC.

Judgment Rendered: February 10, 2012

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On Appeal from the City Court of Slidell
In and for the Parish of St. Tammany,
State of Louisiana
Trial Court No. 2007 C 4317

Honorable Elaine DiMiceli, Judge Pro Tempore Presiding

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James L. Bates, Jr.
Slidell, LA

Attorney for Defendant-Appellee,
Maritime Systems, Inc.

Charles H. Thibodeaux
Pearl River, LA

Plaintiff-Appellant,
In Proper Person

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BEFORE: CARTER, C.J., PARRO, AND HIGGINBOTHAM, JJ.

HIGGINBOTHAM, J.

This is a *pro se* appeal by Charles H. Thibodeaux from a judgment in favor of Maritime Systems, Inc. (Maritime), dismissing all of his claims against it. For the following reasons, we affirm.

Mr. Thibodeaux asserts in his petition that he purchased a boat that was stored at Maritime and that while the boat was stored there, Maritime allowed termites to infest the boat, did not properly pump the boat out, did not maintain proper water level in the batteries, and allowed certain items to go missing from the boat. The matter proceeded to trial, after which the trial court dismissed Mr. Thibodeaux's case for lack of evidence to support the allegations in the petition. It is from this judgment that Mr. Thibodeaux appeals.

Mr. Thibodeaux contends that a default trial was dismissed without proper cause or notice to him. Mr. Thibodeaux filed an order requesting a default trial on March 6, 2009. The trial court denied his request, because there were responsive pleadings filed. Maritime had filed an answer on February 17, 2009. Louisiana Code of Civil Procedure article 4904 (A) states "In suits in a parish court or a city court, if the defendant fails to answer timely, or if he fails to appear at the trial, and the plaintiff proves his case, a final judgment in favor of plaintiff may be rendered. No prior default is necessary." Although a preliminary default is not required in city court and La. C.C.P. art. 1702(A) which provides for the confirmation of a default judgment in district court does not apply, confirming a default judgment in city court after the defendant files an answer is improper. See Campbell v. Select Car Co., Inc., 38,443 (La. App. 2d Cir. 5/12/04), 874 So.2d 391, 394, writ denied, 04-1747 (La. 10/15/04), 883 So.2d 1057. Therefore, because there was an answer filed, the trial court was not in error in denying Mr. Thibodeaux's request for a default trial.

After a thorough review of the record and relevant jurisprudence, we find that the trial court's oral reasons for judgment adequately explain the decision. We agree with the trial court that Mr. Thibodeaux failed to produce evidence to support the allegations in the petition. Therefore, we find the trial court's decision was legally correct. Furthermore, we find no manifest error in the trial court's factual findings and conclusions of law. Thus, we affirm the judgment and issue this opinion in accordance with Rule 2-16.1B of the Uniform Rules of Louisiana Courts of Appeal. All costs of this appeal are assessed against Mr. Thibodeaux.

AFFIRMED.