

UNITED STATES BANKRUPTCY COURT
For the Southern District of Iowa

In the Matter of

MACK C. BRITTAIN,
LOIS E. BRITTAIN,
dba Brittain Truck Line,

Case No. 87-299-C
Chapter 7

Debtors.

ORDER ON OBJECTION TO SCHEDULE B-4
PROPERTY CLAIMED AS EXEMPT

On April 14, 1987 an objection to schedule B-4 property claimed as exempt filed by the trustee on March 5, 1987 came on for hearing in Des Moines, Iowa. The trustee, David A. Erickson, appeared and Jerry L. Jones appeared on behalf of the debtors. The trustee filed a letter brief; the debtors did not. The briefing deadline has expired. The matter is considered fully submitted.

The debtors filed a joint petition for relief on February 5, 1987. Pursuant to Iowa Code section 627.6(10),¹ they claim a 1978 Freightliner tractor valued at \$7,300.00 exempt. The trustee contends that under Iowa's exemption law, a Freightliner tractor is not a tool of the trade. The court agrees.

DISCUSSION

Iowa's Code section 627.6(10) provides that:

¹ Some confusion has arisen concerning the correct numbering of the subsections under Iowa Code section 627.6. The confusion apparently has resulted from the striking of former subsection 5. All Iowa statutory citations in this order are taken from the official Iowa Code (1987) unless otherwise noted.

If the debtor is engaged in any profession or occupation other than farming, (the debtor may claim) implements, professional books, or tools of the trade of the debtor or a dependent of the debtor, not to exceed in value ten thousand dollars in the aggregate [exempt].

Under Iowa Code section 627.6(9), a debtor may claim musical instruments, one vehicle and an interest in certain wages and tax refunds as exempt in an aggregate value not to exceed \$5,000.00. Since a Freightliner tractor is a means of conveyance, it is a vehicle for purposes of Iowa's exemption statute. Matter of Hahn, 5 B.R. 242, 245 (Bankr. S.D. Iowa 1980).

Given that Iowa's exemption statute provides separate exemption categories for tools of the trade and for a vehicle, the debtors are precluded from claiming the Freightliner tractor as a tool of the trade. In Farmers' Elevator & Live Stock Co. v. Satre, 195 N.W. 1011 (Iowa 1923), the Iowa Supreme Court was faced with a situation wherein a debtor sought to claim a truck and an automobile as a tool of the trade. The court stated:

Were it not for the specific classification in the statute of the 'proper tools, instruments, or books of the debtor, if a farmer,' and a further classification of 'the wagon or other vehicles, etc.', the position of the [debtor] would be very convincing. But the statute mentions and classifies separately 'the proper tools, instruments,' used in the operation of the farm business and 'the wagon or other vehicle.' Undoubtedly the truck and

automobile in question come within the latter classification and must therefore be considered strictly as vehicles and not as farm tools The statute in plain and clear terms enumerates what is exempt to a farmer in the way of a vehicle, and the automobile and truck in question come under the classification made respecting a vehicle. We are not warranted in saying that the truck and automobile in question, or either of them, should come under the classification of tools and instruments of a farmer, when there is in the statute a specific classification under which they belong.

Farmers' Elevator, 195 N.W. at 1013.

In the case of In re Eakes, 69 B.R. 497 (W.D. Mo. 1987), a debtor claimed ten cows as exempt under Missouri's tools of the trade exemption. Under Missouri's statute, tools of the trade and animals are placed in separate categories. The Eakes court held that the separate enumeration of animals and tools of the trade indicated that the legislature did not perceive animals to be included within the meaning of "tools of the trade". In rendering this decision, the Eakes court relied upon the "'whole statute' rule of statutory construction which is based on the proposition that words and phrase [sic] of a statute are to be read in context with neighboring words and phrases in the same statute to produce a harmonious whole." Id. at 498, quoting 2A Sutherland Stat. Const., section 46.05 (4th ed. Sands 1984).

The foregoing principles lead this court to conclude that Iowa's separate categorization of vehicles and tools of the trade evinces a legislative intent that vehicles are not

included within the meaning of "proper implements" or "tools of the trade", under Iowa Code section 627.6(10).

Another consideration buttresses this conclusion. Had the Iowa legislature intended to include vehicles under section 627.6(10), it could have provided so. Indeed, Iowa Code section 627.6(11)(a), which sets out a portion of the present farm exemptions, does provide that the debtors may claim:

Implements and equipment reasonably related to a normal farming operation. This exemption is in addition to a motor vehicle held under subsection 10.

Id. (emphasis added).² Use of the word "in addition" and reference to the vehicle exemption under Iowa Code section 627.6(9) reveal that the Iowa legislature perceived that vehicles are to be included within the meaning of "implements and equipment" under section 627.6(12)(a). No such language is found in section 627.6(10).

CONCLUSION AND ORDER

WHEREFORE, based upon the foregoing analysis, it is hereby found that the Freightliner tractor claimed exempt by the debtors is not a "proper implement" or "tool of the trade" under Iowa Code section 627.6(10).

THEREFORE, the trustee's objection to the exemption claim is sustained.

Dated this 30th day of June, 1987.

² Livestock and feed for livestock may be claimed exempt along with implements and equipment but the combined value cannot exceed \$10,000.00

LEE M. JACKWIG

U.S. BANKRUPTCY JUDGE