STATE OF MICHIGAN

COURT OF APPEALS

SIDNEY SLAYTON, PERSONAL REPRESENTATIVE OF THE ESTATE OF SHIRLEY ANN SLAYTON, deceased,

Plaintiff-Appellant,

v No. 112548

LOYAL G. HARVILLE,

Principal Defendant,

v

AETNA CASUALTY & SURETY COMPANY,

Garnishee Defendant-Appellee.

Before: Michael J. Kelly, P.J., and Sullivan and G.S. Allen,* JJ

PER CURIAM.

Plaintiff appeals from the circuit court's grant of summary disposition in favor of garnishee defendant Aetna Casualty & Surety Company.

In January of 1984, Aetna issued a six-month auto insurance policy to Loyal Harville, the principal defendant. This policy provided for coverage from January 19, 1984 to July 19, 1984, and provided that the policy could be continued for successive policy periods by payment of the required renewal premium in advance of each such period. Harville did not pay Aetna a renewal premium to extend coverage past July 19, 1984.

In August of 1984, plaintiff's decedent, Shirley Ann Slayton, was fatally injured in an automobile-truck accident with defendant Loyal Harville. Plaintiff was a passenger in the automobile; Harville was the driver of the truck. Plaintiff sued Harville and obtained a default judgment against him. Plaintiff then served a writ of garnishment upon Aetna in an effort to collect under Harville's auto insurance policy. Aetna answered

*Former Court of Appealsjudge, sitting on the Court of Appeals by assignment.

the writ and denied coverage on the ground that Harville's insurance policy terminated on July 19, 1984, for nonpayment of premium. Both parties moved for summary disposition under MCR 2.116(C)(10). The circuit court held that the insurance policy issued to Harville expired by its own terms on July 19, 1984, due to Harville's failure to pay the renewal premium. The court granted Aetna's motion for summary disposition.

Plaintiff argues that the circuit court erred in holding that the policy issued by Aetna to Harville was no longer in force despite the fact that Aetna never gave Harville actual notice of the cancellation. We find no error.

Under MCL 500.3020(1)(b); MSA 24.13020(1)(b), in order for an insurer to cancel a policy already in effect, it must give the insured party actual notice of cancellation at least ten days prior to the effective date. Citizens Insurance Co v Crenshaw, 160 Mich App 34, 37; 408 NW2d 100 (1987), lv grtd 429 Mich 859 (1987), appeal dismissed 430 Mich 888 (1988); Citizens Insurance Co v Lemaster, 99 Mich App 325, 328; 298 NW2d 19 (1980), lv den 411 Mich 970 (1981). However, where an insurance policy expires according to its own terms when the insured party fails to pay the premiums, the insurer is not required to give notice of cancellation under MCL 500.3020; MSA 24.13020. Grable v Farmers Insurance Exchange, 129 Mich App 370, 373; 341 NW2d 147 (1983), lv den 419 Mich 851 (1984); Eghotz v Creech, 365 Mich 527; 113 NW2d 815 (1962).

The policy issued to Harville by Aetna provided that it would be continued in force for successive policy periods only if the insured party paid the premiums for each policy period in advance. Harville did not pay the required premium, so his policy expired on July 19, 1984. Under Grable and Eghotz, Aetna was not required to give Harville actual notice of this expiration. There appears to be no difference or distinction between a one-year policy and a six-month policy, the difficulty

here being Exhibit 3 attached to plaintiff's brief is a declaration sheet entitled "Renewal Declarations" which lists a policy period from July 19, 1984 to January 19, 1985. Apparently the insurance company uses a computer to issue and post a successive policy declaration sheet without regard to whether or not the premium has been paid. On this sheet however, it clearly appears that the amount of premium was not paid because the amount was listed as due and stated that Harville would be billed for the premium. Without these factors summary disposition may not have been appropriate. Since Harville was not insured by Aetna at the time of the accident in question, summary disposition for Aetna was proper.

Affirmed.

/s/ Michael J. Kelly
/s/ Joseph B. Sullivan
/s/ Glenn S. Allen, Jr.