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DISTRICT IV

January 15, 2026

To:

Hon. Gloria L. Doyle
Circuit Court Judge
Electronic Notice

Tammy Pedretti
Clerk of Circuit Court
La Crosse County Courthouse
Electronic Notice

Laura Jean Kelly Electronic Notice

Tanisha Messer Electronic Notice

River Region Rentals, Inc.
N24121 County Road J
Arcadia, WI 54612

You are hereby notified that the Court has entered the following opinion and order:

2024AP2505

River Region Rentals, Inc. v. Laura Jean Kelly and Tanisha Messer
(L.C. # 2024SC1272)

Before Graham, P.J.¹

Summary disposition orders may not be cited in any court of this state as precedent or authority, except for the limited purposes specified in WIS. STAT. RULE 809.23(3).

Laura Jean Kelly and Tanisha Messer (“the tenants”) appeal a circuit court judgment that evicted them from an apartment they shared and awarded River Region Rentals, Inc. (“the landlord”) four months of back rent along with fees and costs. The tenants have also moved for summary reversal on the ground that the landlord did not file a respondent’s brief in this appeal. Having reviewed the record and the tenants’ brief, I conclude that the tenants have not identified

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2023-24). All references to the Wisconsin Statutes are to the 2023-24 version.

any legal basis for reversing the eviction judgment and that summary disposition is appropriate. I affirm the judgment and deny the motion for summary reversal.

In October 2024, the landlord filed an amended complaint alleging that the tenants had not paid rent on their leased apartment for July, August, September, or October of that year. In their answer, the tenants did not deny that they had not paid rent for those months. They affirmatively alleged that a child who lived in the apartment had been diagnosed with lead poisoning, and that the diagnosis was a result of conditions on the property. The tenants also noted that the property had recently been condemned. The tenants asked that the eviction action be dismissed on that basis, and sought a refund of their security deposit and the rent that they had previously paid under the lease.

The circuit court held a hearing at which the parties informally presented factual and legal arguments. The landlord stated that the tenants had not been paying rent and would not move out. The landlord agreed that the property had been condemned during the tenants' occupancy due to the detection of lead, and it asserted it had not been able to remediate the issues with lead in the apartment because it could not legally do the remediation work while the apartment remained occupied.

The circuit court determined that the tenants' nonpayment of rent was grounds for eviction. Therefore, it entered a judgment of eviction and a money judgment for the unpaid rent. The court advised the tenants that, had they vacated the property when the lead issue was discovered, they might have been able to terminate the lease, but because they had instead remained on the premises, they were obligated to pay rent.

On appeal, the tenants raise three arguments. First, they argue that they were not required to pay rent due to the condition of the property. In support, they cite WIS. STAT. § 704.07(2), which imposes obligations on residential landlords to comply with local housing codes and to maintain rented premises in a reasonable condition. Relatedly, the tenants cite *Posnanski v. Hood*, 46 Wis. 2d 172, 174 N.W.2d 528 (1970), and they argue that *Posnanski* stands for the proposition that a “landlord cannot collect rent for a condemned or uninhabitable property.”

Posnanski does not support the proposition for which the tenants cite it. On the contrary, in that case, our supreme court held that the local housing ordinances at issue did *not* authorize a tenant to withhold rent on the ground that the premises were not up to code. *Id.* at 182-83. The tenants cite no case law or statute that would have permitted them to remain on the leased premises without paying rent.²

Second, the tenants argue that this was a retaliatory eviction in violation of WIS. STAT. § 704.45. That statute prohibits a landlord from taking various actions, including evicting a tenant, in retaliation for complaining to the landlord or an appropriate public authority about the condition of the property. The tenants assert their eviction was “likely retaliatory” because it occurred after they complained about lead-based paint on the premises. I could reject the argument about a retaliatory eviction on the ground that the tenants do not identify any facts, other than the mere timing of events, that would support a determination that the eviction was retaliatory. But more importantly, the tenants did not raise this argument in the circuit court, and

² I note that WIS. STAT. § 704.07(4) does, under certain circumstances, authorize rent abatement related to hazardous conditions “to the extent the tenant is deprived of the full normal use of the premises.” However, the tenants here did not allege and have not argued that they were deprived of the full normal use of the apartment. Further, the express language of § 704.07(4) “does not authorize rent to be withheld in full, if the tenant remains in possession” of the property, as the tenants were in this case.

it is therefore forfeited. *See Northbrook Wis., LLC v. City of Niagara*, 2014 WI App 22, ¶20, 352 Wis. 2d 657, 843 N.W.2d 851 (“Arguments raised for the first time on appeal are generally deemed forfeited.”).

Finally, the tenants argue that the circuit court “ignored evidence and allowed false testimony.” Generally, whether testimony is “false” is to be determined by the factfinder on the circuit court level, not by an appellate court. *See State v. Wachsmuth*, 166 Wis. 2d 1014, 1023, 480 N.W.2d 842 (Ct. App. 1992) (“It is generally not the province of the reviewing court to determine issues of credibility.”). Here, the tenants merely restate factual assertions they made during the proceedings before the circuit court; they do not show that the court disregarded probative evidence (as opposed to concluding that the offered evidence was not relevant to the legal issues in the case), nor do they identify any evidence that would conclusively demonstrate that any of the landlord’s testimony was false.

For these reasons,

IT IS ORDERED that the judgment is summarily affirmed. *See* WIS. STAT. RULE 809.21.

IT IS FURTHER ORDERED that the tenants’ motion for summary reversal is denied.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

*Samuel A. Christensen
Clerk of Court of Appeals*