COURT OF APPEALS
DECISION
DATED AND FILED

November 18, 2026

Samuel A. Christensen
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. 2026AP1057 **Cir. Ct. No. 2026SC438**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT II

MR. STORAGE, LLC,

PLAINTIFF-RESPONDENT,

V.

JJ BRIGGS CONSULTING, LLC,

DEFENDANT-APPELLANT,

JAMIE BRIGGS AND ALL OTHER OCCUPANTS OF 23 E. JACKSON ST., WAUPUN, WI 53963,

DEFENDANTS.

APPEAL from a judgment and an order of the circuit court for Fond du Lac County: DOUGLAS R. EDELSTEIN, Judge. *Affirmed*.

¶1 GROGAN, J.[1] JJ Briggs Consulting, LLC (Briggs)[2] appeals pro se from a judgment evicting it from a commercial property following a bench trial and from an order denying its motion for reconsideration. Briggs raises four issues: (1) "[t]he circuit court applied the wrong legal standard by treating an occupancy permit as equivalent to lawful occupancy under WIS. STAT. § 704.07(4)"; (2) "[t]he circuit court's findings are incomplete under WIS. STAT. § 805.17(2), and those incomplete findings do not support the denial of appellant's counterclaim"; (3) "[t]he May 26 order should be vacated because the circuit court did not apply the stay undertaking and WIS. STAT. § 799.445 to the post-surrender circumstances"; and (4) "[t]he amended money judgment requires redetermination of post-judgment rent and fails to apply an ordered signage credit."[3] This court will address only the first two issues raised. The third and fourth issues challenge orders entered *after* Briggs filed its notice of appeal, and this court does not have jurisdiction to address those orders.[4] For the reasons set forth below, this court affirms.

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

[2] Jamie Briggs is the owner of the business and will be referred to as "Jamie" when the opinion refers directly to her.

[3] Briggs presents a fifth "issue" in its brief requesting a new circuit court judge if this court remands the matter. This is not an issue the court of appeals decides, but is a statutory right when certain circumstances set forth in WIS. STAT. § 799.205(4) are met.

[4] The notice of appeal filed on May 4, 2026, challenges the eviction judgment and the reconsideration order, both entered in April 2026. Briggs's third issue challenges an order dated May 26, 2026, and the fourth issue challenges an order dated July 17, 2026. Both of these orders post-date the notice of appeal, and this court cannot address them. *See* ***Chicago & N.W.R.R. v. LIRC***, 91 Wis. 2d 462, 473, 283 N.W.2d 603 (Ct. App. 1979), *aff'd*, 98 Wis. 2d 592, 297 N.W.2d 819 (1980) ("An appeal from a judgment does not embrace an order entered after the judgment.").

I. BACKGROUND

¶2 Jamie entered into a year-long commercial lease agreement with Mr. Storage, LLC (Mr. Storage) to lease a warehouse space for its business, with the lease starting on January 15, 2026, and continuing through January 14, 2027.[5] The applicable contractual provisions in the lease provide:

> 3. Leased Premises
>
> > 3. … The Premises will be used for only the following permitted use (the "Permitted Use"): Insurance Company office/Retail and Studio Art space.
>
> ….
>
> > 5. The premises are provided to the Tenant without any fixtures, chattels or leasehold improvements.
>
> 6. Term
>
> > 6. The term of the Lease is a periodic tenancy commencing … on January 15, 2026, and continuing for a term of one year ending Jan[uary] 14, 2027.
>
> 7. Rent
>
> > 7. Subject to the provisions of this Lease, the Tenant will pay a base rent of $2500.00, payable per month (the "Base Rent"), without setoff, abatement or deduction. In addition to the Base Rent, the Tenant will pay for any fees or taxes arising from the Tenant's business.
>
> ….
>
> 35. General Provisions
>
> ….

[5] This lease followed a short-term lease that ran from September 15, 2025, through January 14, 2026.

> 40. This Lease will constitute the entire agreement between the Landlord and the Tenant. Any prior understanding or representation of any kind preceding the date of this Lease will not be binding on either party to this Lease except to the extent incorporated in this Lease. In particular, no warranties of the Landlord not expressed in this Lease are to be implied.

According to Jamie, the City of Waupun conducted an occupancy walkthrough of the premises she leased, and a city inspector determined that there was "not independent egress from the space and that it required exit signage." As a result, Jamie did not pay the "full rent" because she could not "open [her] business as the permitted use statement in the lease." Jamie's failure to pay rent led to Mr. Storage initiating an eviction lawsuit against Briggs. Jamie filed a counterclaim to the lawsuit alleging that Mr. Storage had leased her premises not capable of occupancy:

> [Mr. Storage] leased [Briggs] premises that were not capable of lawful occupancy … including lack of independent secondary egress and required exit signage. … As a result, [Briggs] incurred mitigation expenses, loss of business use, reduced rental opportunities, … and other consequential damages, presently estimated at $20903.00. These conditions substantially interfered with [Briggs]'s lawful beneficial use of the premises and frustrated the essential purpose of the lease. [Briggs] therefore seeks offset, abatement, and monetary relief.

¶3 The circuit court held a bench trial. Mr. Storage called its representative Jodi Mallas to testify. Mallas testified that by entering the lease, Mr. Storage did not have to complete any improvements to the property, nor did it promise to make any. Speaking about the occupancy permit, Mallas indicated that it was tied to the "particular business" rather than the premises' owner and the premises itself. Jamie testified next. She told the court that this was her first time occupying a business with a physical space "[u]nder a lease[.]" She also said she

had no prior experience working with the city on occupancy permit compliance. She testified that she was unable to operate her business because she was told it was "not legal to operate a public facing business … without exit signage and independent egress." Jamie explained she "did not pay the full rent because I was not able to open the business as the permitted use statement in the lease. And the agreed use, as it was the only use permitted."

¶4 After hearing the testimony, the circuit court found that "[n]o where in the terms of the lease is there assignment of responsibility, such that the occupancy permit would be the responsibility of [Mr. Storage]." It also found "[t]he space itself very well may be suitable, but [Mr. Storage] has not agreed to bear the cost of updating, renovating, or otherwise to ensure that that would likely be an additional cost or reference within the contract." The court found: (1) the lease was "clear" and "unambiguous"; (2) there was no evidence the space was untenantable; and (3) Jamie materially breached the lease by failing to make payment. The court noted that the unpaid rent totaled $5,500, but ruled that it would offset the cost Jamie incurred for exit signage if she submitted documentation of that cost within ten days. Jamie submitted an itemization of costs in the amount of $208.90 by the deadline. When asked about Jamie's counterclaim, the court denied it, explaining it could not "discern that the contractual relationship placed any obligation on [Mr. Storage] to effectively get [Briggs's] business permitted to run there." Following the ruling, the court ordered a writ of eviction.

¶5 Shortly after the eviction trial, Jamie filed a motion for reconsideration, in which she requested clarification as to the status of her counterclaim, asked the circuit court to reconsider the counterclaim, and grant "such other relief" the court "deems just and equitable." The court denied this

motion, finding that "credible evidence" demonstrated a material breach for failure to pay rent. It also sua sponte referenced WIS. STAT. § 704.07(4), indicating that the statute only allows rent abatement when "the condition of the premises 'substantially affects the use and occupancy of the premises[,]'" and there was no evidence of that in this case. It specifically held that Jamie's "failure to obtain an occupancy permit for the premises did not otherwise convert the commercially available space into an untenantable location." The court's reconsideration order affirmed the writ of eviction and the denial of "any counterclaims." Briggs appeals both the eviction judgment and the reconsideration order.

II. DISCUSSION

¶6 Briggs argues that the circuit court applied the wrong legal standard and that its findings were inadequate. "Whether the circuit court has applied the correct legal standard is a question of law reviewed de novo." ***Landwehr v. Landwehr***, 2006 WI 64, ¶8, 291 Wis. 2d 49, 715 N.W.2d 180. This court "uphold[s] a circuit court's findings of fact unless they are clearly erroneous." ***Phelps v. Physicians Ins. Co. of Wis., Inc.***, 2009 WI 74, ¶34, 319 Wis. 2d 1, 768 N.W.2d 615.

¶7 Briggs argues that "the circuit court answered a question of contractual responsibility for an occupancy permit rather than the statutory question presented under WIS. STAT. § 704.07(4)[,]" and alleges the court's findings are inadequate, the case should be remanded so the court can make adequate findings, and the "incomplete findings do not support the denial of [Briggs]'s counterclaim." Mr. Storage responds that Briggs's first issue is "illogical, inadequately developed, and forfeited[,]" and that the court's findings regarding Briggs's defense and counterclaim were adequate.

A. Issue One

¶8 This court agrees with Mr. Storage that Briggs forfeited the WIS. STAT. § 704.07(4) argument because it failed to raise it at the bench trial. *See* ***State v. Huebner***, 2000 WI 59, ¶10, 235 Wis. 2d 486, 611 N.W.2d 727 ("[I]ssues must be preserved at the circuit court. Issues that are not preserved at the circuit court, even alleged constitutional errors, generally will not be considered on appeal."). And although Briggs is correct that the court addressed it in its written order denying the reconsideration motion, the forfeiture rule exists to prevent sandbagging a party that never had a chance to address the issue in the circuit court. *See* ***Schonscheck v. Paccar, Inc.***, 2003 WI App 79, ¶¶10-11, 261 Wis. 2d 769, 661 N.W.2d 476 (party forfeits challenge when it fails to fully develop the argument before the circuit court). Nevertheless, because the court addressed § 704.07(4) in its reconsideration order, this court will briefly address it.

¶9 Briggs's briefing is difficult to decipher. Briggs seems to argue that at trial, the circuit court should have included an analysis under WIS. STAT. § 704.07(4) and answered whether "the premises were capable of the Permitted Use," rather than resolving occupancy-permit responsibility. But § 704.07(4) only applies to commercial leases that do *not* have a "contrary provision in writing signed by both parties." Sec. 704.07(1). The lease that Mr. Storage and Jamie signed appears to have a contrary provision.[6] But even if it did not, § 704.07(4) only allows rent abatement under certain conditions, which Briggs failed to

[6] The lease provides: (1) "[t]he [p]remises are provided to the [t]enant without any fixtures, chattels, or leasehold improvements[,]" and (2) "the [t]enant will pay [rent] … without setoff, abatement or deduction."

establish at trial. Briggs fails to establish the court erred by not applying the statute.

¶10 Briggs's first issue also seems to contend that the conditions imposed by the city for occupancy—a proper egress and exit signage—rendered the premises "life-safety deficiencies" and that the circuit court's failure to specifically address the egress deficiency constituted reversible error. This court rejects Briggs's contentions. The first of these arguments is tied to the statutory argument already rejected above or the counterclaim argument rejected below. Further, the circuit court was not obligated to make a specific finding regarding egress, particularly given the lack of evidence on that point—even if it chose to address exit signage.

B. Issue Two

¶11 The second issue is whether the circuit court made adequate findings to reject Briggs's defense/counterclaim. The counterclaim alleged that Mr. Storage leased to Briggs:

> premises that were not capable of lawful occupancy for the agreed public-facing use due to unresolved egress and life-safety deficiencies, including lack of independent secondary egress and required exit signage. After city inspection, [Briggs] promptly notified [Mr. Storage], purchased and affixed exit signage (without wiring), restored an existing exit door, and added panic hardware in a good-faith effort to mitigate the conditions. Further corrective work required building permits, structural authority, and owner action, which remained [Mr. Storage]'s responsibility as property owner.

This court reviewed the trial transcript. There is no mention of Briggs's counterclaim until *after* the court rendered judgment in favor of Mr. Storage. At

that point, Mr. Storage's attorney asked about the counterclaim. The court responded:

> Well, there has been no counterclaim presented. In terms of the nature of the pleadings, there is no advancement of that claim by Ms. Briggs. She was given multiple opportunities to present the case, including what I summarized was the issue of nonpayment for the eviction. She did not put forth any additional evidence.
>
> I cannot discern from this record that there was a lack of good faith, such there would be a form of punitive damages. And damages in this respect would likely be a potential insurance issue, but I can't discern that the contractual relationship placed any obligation on [Mr. Storage] to effectively get [Briggs's] business permitted to run there. So I'm denying any counterclaim.

And, as noted, when Briggs sought reconsideration of the counterclaim ruling, the court affirmed its denial.

¶12 The transcript shows the circuit court made the following findings:

- the lease provided the premises without any fixtures, chattels or improvements;
- Briggs failed to obtain an occupancy permit;
- the lease did not make the occupancy permit "the responsibility of the landlord";
- the lease was clear and unambiguous; and
- a material breach occurred due to Briggs's failure to make payment.

Briggs has failed to show that any other findings were required. The court made the necessary findings based on the evidence presented at trial. When a party fails to present any evidence on a counterclaim, a court needs to only do what the court did here. Further, "in the absence of specific findings, we assume findings were made that support the ruling[.]" ***State v. Lindberg***, 175 Wis. 2d 332, 342, 500

N.W.2d 322 (Ct. App. 1993). Briggs has not met its burden to show the court made inadequate findings. *See* ***Gaethke v. Pozder***, 2017 WI App 38, ¶36, 376 Wis. 2d 448, 899 N.W.2d 381 (An appellant bears the burden to demonstrate how the circuit court erred.).

¶13 Finally, Briggs contends the circuit court ordered an offset for the costs it incurred to install the exit signage, which was presumably left affixed to the premises. The Record confirms the court did order the offset contingent upon Briggs timely submitting an itemization of the costs incurred for the exit signage to the attorney for Mr. Storage.[7] The Record reflects Briggs filed receipts for "materials" in the amount of $108.90 and for "labor" in the amount of $100 to the court within the ordered ten days. It is unclear whether Briggs sent the itemization to the attorney for Mr. Storage as ordered by the court. It does not appear that any offset was credited to Briggs. Upon receipt of this opinion, the circuit court is directed to determine whether Briggs complied with the court's offset order, and, if so, the circuit court shall amend the judgment to reflect the offset.

By the Court.—Judgment and order affirmed.

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

[7] The circuit court stated: "And so, Ms. Briggs, I'm going to give you 10 days to itemize the cost of that signage. You are to submit that to [the] Attorney [for Mr. Storage]."