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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0637**

Twin Town Properties, LLC,
Respondent,

vs.

Mark Janavaras a/k/a Markos Janavaras d/b/a General J's Military Surplus,
Appellant.

**Filed May 6, 2019
Affirmed
Cochran, Judge**

Hennepin County District Court
File No. 27-CV-16-13391

John F. Mulligan, Mulligan & Bjornnes PLLP, Minneapolis, Minnesota (for respondent)

Michael T. Cain, Daniel L. M. Kennedy, Kennedy & Cain, PLLC, Minneapolis, Minnesota
(for appellant)

Considered and decided by Reyes, Presiding Judge; Hooten, Judge; and Cochran,
Judge.

UNPUBLISHED OPINION

COCHRAN, Judge

Appellant-tenant Mark Janavaras challenges the district court's factual findings, legal conclusions, and damages award following a court trial on respondent-landlord Twin Town Properties, LLC's claims of breach of contract and Janavaras's counterclaims of conversion, civil theft, and statutory damages under Minn. Stat. § 504B.271 (2018).

Janavaras also challenges the district court's decision to exclude expert testimony and to deny his motion for partial summary judgment. We affirm.

FACTS

Mark Janavaras operated a military and general surplus store called General J's Military Surplus in Minneapolis. Janavaras had an enormous inventory of items for sale at General J's. The store was located on a property (the premises) in Minneapolis that Janavaras rented from Twin Town Properties, LLC (Twin Town). Barry Anderson and his father operated Twin Town, which Anderson's father owned.

In February 2015, Janavaras began amassing fire code violations at the premises. The violations related to the large inventory of goods maintained at General J's and the disorganized manner in which they were stored. Twin Town brought an eviction action in May 2015. Twin Town and Janavaras settled the eviction action with an agreement that Janavaras would pay monthly rent, comply with fire code inspections, and vacate the premises by January 31, 2016. Janavaras planned to use this time to liquidate General J's large inventory and cease operations.

In early 2016, Janavaras asked Twin Town to extend the lease. The parties negotiated a new lease that ran from February 1, 2016 to August 1, 2016. The parties intended that Janavaras would liquidate his inventory and vacate the premises by August 1, 2016, the end of the new lease.

By July 2016, however, General J's had not resolved the fire code violations. The violations were numerous. At the trial, the district court found that the store was "crammed full" with "massive amounts of inventory, much of which was old, filthy, broken and

completely undesirable.” The City of Minneapolis assessed fines on the premises for the fire code violations. Whenever Anderson spoke with Janavaras to ask him about the fire code violations, Janavaras told him not to worry. The cumulative total of the fire code fines assessed against the property by July 2016 was \$1,540. Anderson was concerned that Twin Town could lose its rental license if the fire code fines were not paid. Based on Janavaras’s failure to correct the fire code violations and pay the fines, Twin Town brought another eviction action against Janavaras on July 14, 2016.

Also in July 2016, Anderson noticed that General J’s was not open, which Anderson thought was unusual. On or about July 16, 2016, Janavaras was hospitalized with a medical condition. At that time, he was represented by attorney Edward Rooney.

On or about July 21, 2016, Anderson entered the premises to start cleaning the store to bring it into compliance with the fire code. Because Janavaras had failed to give Twin Town a key to the premises, as required by the active lease, and because Anderson did not have Janavaras’s direct contact information, Anderson replaced the locks at a cost of about \$100. Twin Town also paid approximately \$300 to repair a broken window. For about the next week, Anderson was at the premises cleaning nearly every day. No one from General J’s attempted to access the premises during that time period.

On July 22, 2016, Twin Town contacted Rooney about the eviction action and the parties began to discuss resolving the matter. Rooney was negotiating for Janavaras to stay in the store after the lease expired. The parties’ negotiations were not successful.

On July 27, 2016, the district court held a hearing in the eviction matter and made findings determining that Janavaras had failed to pay the fire code fines as required by the

lease. Janavaras did not appear at the hearing. The district court issued a writ of recovery of premises in the eviction matter.

On July 29, Rooney proposed that Twin Town rent the premises to Janavaras for two additional months to facilitate an auction of the inventory. Twin Town rejected the proposal.

On July 30, an employee of General J's attempted to access the premises with Janavaras's daughter using Janavaras's key. Because the locks were changed, they could not enter.

On August 1, the lease expired. Janavaras had made no arrangements to move the massive inventory out of the premises before the lease expired. He also never asked for a key to reenter the premises. Janavaras's large inventory remained at the premises. A provision of the lease indicated that "any property not removed [upon the expiration of the lease or earlier termination of Janavaras's right to possession] shall be deemed abandoned, and [Janavaras] shall be liable for all costs of removal."

Also on August 1, Twin Town made a new proposal to Janavaras—that Janavaras make an immediate payment of \$24,047.49, and in exchange, Janavaras could stay at the premises through September. Twin Town believed \$24,047.49 was approximately the amount that Janavaras would owe under the lease that expired if he held over through September plus a \$7,000 deposit for damages. It included holdover rent, which, under the lease, was double the ordinary monthly rent. It also included payment of the fire code fines. Rooney responded to the proposal on August 3, stating that Janavaras could not afford to pay the proposed amount.

Janavaras retained a new attorney, Daniel Kennedy, sometime before August 22, 2016. The writ of recovery was executed on August 23, 2016. On August 26, Kennedy emailed Twin Town's attorney and asked that Twin Town allow Janavaras to access the premises on August 31 to remove the inventory. Kennedy asked that Twin Town respond by August 29 so that Janavaras could arrange for trucks and personnel to remove the inventory. Twin Town's attorney responded on August 29 and asked for assurances that Janavaras would remove all of the inventory. Kennedy told Twin Town that it would take more than one day to remove the inventory, and made a counter-proposal that Janavaras remain at the premises until December 31, 2016. Kennedy represented that Janavaras could sell off as much of the inventory as possible in that time and then give the rest of the inventory to Twin Town. There was no proposal that Janavaras would pay rent. Twin Town rejected the counter proposal. Twin Town wanted all of the inventory removed. On August 30, Kennedy sent an email to Twin Town's attorney that specifically noted that Twin Town never gave Janavaras express permission to remove the inventory and reiterated Janavaras's request that Twin Town allow Janavaras on the premises to remove the inventory.

On September 7, 2016, Twin Town filed a summons and complaint. Twin Town alleged that Janavaras breached the lease contract in several ways, including by non-payment of rent and failure to remove the property left on the premises.

On September 8, Kennedy sent a letter to Twin Town's attorney demanding that Twin Town allow Janavaras to enter the premises and remove the inventory on September 9. Twin Town did not respond to the letter. On September 13, Kennedy sent

another letter to Twin Town demanding Twin Town to allow Janavaras to enter the premises and remove the inventory the next day. Twin Town's attorney sent an email to Kennedy on September 14 asking whether Janavaras would post a \$90,000 bond to remove all the inventory. Janavaras rejected the proposal.

On September 20, 2016, Janavaras filed an answer to the complaint and asserted counterclaims related to Twin Town's control over the inventory that remained in the premises. Janavaras claimed that Twin Town was liable for statutory damages under Minn. Stat. § 504B.271, conversion, civil theft, breach of contract, and unjust enrichment.

On September 28, Twin Town's attorney sent a letter to Kennedy that stated:

The inventory of your client Mr. Janavaras is available to be picked up by him at any time in the next three weeks. When your client is prepared to pick it up, he should contact Barry Anderson to obtain access. After October 21st, we will assume that the tenant does not want to recover the property, and Twin Town will dispose of it. There are no conditions attached to this offer. My client will be reserving all claims against your client, and will pursue them in our District Court action.

In response to the letter, Kennedy asked whether the offer was being made as a settlement offer. Twin Town's counsel indicated that the offer was not a settlement proposal.

Janavaras accessed the premises multiple times in October to remove some of his property. He made no effort to remove all of the inventory and only removed a few items. While he was at the premises on one of these occasions, he told Anderson that he had no place to store the inventory and never intended to vacate the premises at the end of the lease.

On November 9, 2016, Twin Town filed a motion requesting an order to allow Twin Town to take possession of the inventory and sell or dispose of it pursuant to Minn. Stat. § 504B.271. Janavaras did not contest the motion but asked that he be given time to conduct an inventory count. On December 12, 2016, the district court granted the motion allowing Twin Town to sell the inventory.

In its effort to sell the inventory, Twin Town spoke with several potential buyers. Most were not interested in the inventory. The district court found that the store, and its inventory, were in an “abysmal condition.” There were “enormous amounts of valueless items,” and “[m]any of the clothes in the store smelled like they were covered in urine.” There were areas on the store floor that were covered in what appeared to be rat feces, and at some places on the floor the feces were an inch thick. Twin Town sold some select items to one buyer (who was uninterested in the rest of the inventory) for approximately \$1,200. Twin Town sold the rest of the inventory to the owner of a different military surplus store (the inventory purchaser) for \$7,500 in March 2017. After buying the inventory from Twin Town, the inventory purchaser spent 16 days and approximately \$30,000 removing the inventory from the premises. He only ended up keeping approximately 20% of the property. He testified that he would not have purchased the inventory given the information he now has.

Long before the inventory purchaser bought the inventory from Twin Town, Janavaras had contacted him about selling his inventory. The inventory purchaser was not interested in purchasing the inventory at the \$250,000 price that Janavaras suggested at the time.

The trial began on August 18, 2017. The district court found that Janavaras had breached the lease contract by failing to pay the fire code fines and failing to remove the inventory from the premises.¹ The district court awarded Twin Town \$21,000 in damages relating to the cost to store the inventory on the premises after the lease expired, \$1,540 for the fire code violation fines that Janavaras had amassed on the premises, \$300 for repairing the broken window on the premises, \$100 for changing the locks, and \$6,801 in attorney fees. The district court offset the damages awarded to Twin Town by the \$8,700 that it recovered by selling the inventory, making the total damages awarded to Twin Town \$21,041. The court found that Janavaras's counterclaims failed because Twin Town did not convert or steal the inventory and complied with Minn. Stat. § 504B.271 in storing and disposing of the property.² Janavaras did not make a motion for a new trial or amended findings after the district court entered judgment in favor of Twin Town.

This appeal follows.

D E C I S I O N

Janavaras argues that the district court made several errors over the course of this litigation. He argues that the district court erred in denying his motion for partial summary judgment regarding Twin Town's liability under Janavaras's counterclaims. He maintains that the district court abused its discretion by excluding expert testimony due to Janavaras's failure to comply with the district court's scheduling order. He contends that the district

¹ Some of Twin Town's breach-of-contract claims—related to unpaid rent—were dismissed by summary judgment.

² The district court also found that Janavaras's counterclaims for breach of contract and unjust enrichment failed, but those counterclaims are not at issue in this appeal.

court made erroneous findings of fact and legal conclusions when it found that Twin Town was not liable for damages to Janavaras under any of the theories that he asserted under his counterclaims. Finally, he argues that the district court erred in calculating the damages awarded to Twin Town. We address each issue in turn.

I. The district court’s denial of Janavaras’s motion for partial summary judgment is not within this court’s scope of review.

Janavaras argues that the district court erred in failing to grant partial summary judgment on the issue of liability for his counterclaims against Twin Town. He asserts that there were no genuine issues of material fact concerning the claims, that the undisputed facts proved that Twin Town was liable under each claim, and that the trial court misapplied Twin Town’s defenses to the claims.

This court “has the authority to review orders that ‘affect’ the judgment being appealed.” *Bahr v. Boise Cascade Corp.*, 766 N.W.2d 910, 918 (Minn. 2009) (citing Minn. R. Civ. App. P. 103.04). The denial of a motion for summary judgment is not within this court’s appellate review when the district court denied summary judgment because there were material disputed facts. *Schmitz v. Rinke, Noonan, Smoley, Deter, Colombo, Wiant, Von Korff & Hobbs, Ltd.*, 783 N.W.2d 733, 744 (Minn. App. 2010), *review denied* (Minn. Sep. 21, 2010). A “district court’s conclusion . . . that there was a genuine dispute of fact becomes moot once” a trial is held and the parties have been given a full and fair opportunity to litigate their claims. *Bahr*, 766 N.W.2d at 918. Here, the district court denied summary judgment because it found that there were genuine issues of material fact related to the defenses that Twin Town asserted to Janavaras’s claims. The district court’s

denial of partial summary judgment is not within this court's scope of appellate review because the denial of summary judgment was based on the existence of genuine issues of material fact and a trial has been held on the merits of Janavaras's counterclaims. We do not reach the merits of Janavaras's partial summary judgment arguments.

II. The district court did not abuse its discretion when it excluded expert testimony that Janavaras intended to introduce.

Janavaras argues that the district court abused its discretion by excluding his expert witness from trial because he failed to comply with the district court's expert disclosure requirements. He argues that the district court should have considered a less severe sanction for his failure to comply with the scheduling order. Janavaras asserts in his appellate brief that the value of the property that the expert would have testified to at trial is the purported retail value of the inventory.³

The parties disagree over whether the district court's decision to exclude Janavaras's expert witness is subject to appellate review, given that Janavaras failed to move for a new trial. *See Sauter v. Wasemiller*, 389 N.W.2d 200, 201 (Minn. App. 1986) (indicating that, generally, to preserve an evidentiary ruling for appeal, the party seeking review must make a motion for a new trial to the district court). The supreme court recently held that the general rule established in *Sauter* does not apply to pretrial orders on motions in limine. *County of Hennepin v. Bhakta*, 922 N.W.2d 194, 199 (Minn. 2019). Because Twin Town's

³ The amount that Janavaras argues is the retail value in his appellate brief is the same amount that Janavaras claimed the expert witness would testify to on an expert witness disclosure document before trial.

motion to exclude expert testimony was made as a motion in limine, we review the merits of Janavaras's arguments.

On November 2, 2016, the district court issued a scheduling order. The scheduling order provided that Janavaras was required to disclose expert witnesses and their reports by June 16, 2017. Janavaras disclosed that he would call an expert witness by the June 16, 2017 deadline, but failed to disclose the expert's report until July 28, 2017, more than a month after the deadline and less than a month before trial. The district court found that Janavaras "flagrantly" ignored the scheduling order considering the amount of time between the filing of the scheduling order and the deadline to disclose expert witnesses and reports.

"The admission of evidence rests within the broad discretion of the [district] court and its ruling will not be disturbed unless it is based on an erroneous view of the law or constitutes an abuse of discretion." *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997) (quotation omitted). "We view the record in the light most favorable to the district court's ruling." *In re Conservatorship of Smith*, 655 N.W.2d 814, 820 (Minn. App. 2013). "[T]he availability of other sanctions does not render the exclusion of testimony an abuse of discretion." *Id.* at 821. A party is not entitled to a new trial based on an erroneous evidentiary ruling unless the ruling resulted in prejudicial error. *Id.* at 820.

"The trial court has a duty to suppress such evidence or testimony where counsel's dereliction is inexcusable and results in unjust surprise and prejudice to his opponent." *Phelps v. Blomberg Roseville Clinic*, 253 N.W.2d 390, 394 (Minn. 1977) (quotation omitted). The decision to exclude is discretionary and may be ordered "if the opponent has

been prejudiced to any appreciable degree.” *Id.* In deciding whether to suppress expert testimony for failure to disclose the expert, the district court should consider whether the nondisclosure was inexcusable, inadvertent, and whether the expert is necessary. *Norwest Bank Midland v. Shinnick*, 402 N.W.2d 818, 823 (Minn. App. 1987).

The district court found that Janavaras’s nondisclosure of the expert’s report was “blatant non-compliance.” It is clear that the district court considered Janavaras’s nondisclosure to be inexcusable. The district court reviewed the report and indicated that it was not clear what benefit the expert would provide to Janavaras’s case. Moreover, the district court recognized that Twin Town was unable to rebut the expert’s report due to the late disclosure less than a month before trial. Considering these factors, the district court precluded Janavaras from introducing expert testimony. Based on our review of the record, we conclude that the district court’s evidentiary ruling was not an abuse of its discretion.

We also conclude that, even if the district court abused its discretion in precluding the expert testimony, the evidentiary ruling was not prejudicial. As discussed in more detail below, Janavaras failed to establish at trial that he was entitled to damages under any of his counterclaims. Ultimately, the measure of the value of the property that was applicable was not the retail value of the property, but rather the amount that Twin Town sold the property for, which was offset against the breach of contract damages that Twin Town was awarded. Janavaras’s expert’s testimony regarding the retail value of the inventory would not have affected the outcome of trial, and thus the evidentiary ruling did not result in prejudicial error.

III. The district court's factual findings and legal conclusions regarding Janavaras's counterclaims were not erroneous.

Janavaras argues that the district court erred in not awarding damages for his counterclaims under Minn. Stat. § 504B.271, conversion, and theft.

“On appeal from a bench trial, this court’s scope of review is limited to determining whether the trial court’s findings are clearly erroneous and whether the court erred as a matter of law.” *Birch Publ’ns, Inc. v. RMZ of St. Cloud, Inc.*, 683 N.W.2d 869, 872 (Minn. App. 2004) (quotation omitted), *review denied* (Minn. Oct. 19, 2004). We will reverse a district court’s findings of fact only if we are “left with a definite and firm conviction that the trial court has made a mistake.” *Id.* (quotation omitted). We review issues of law de novo. *See id.* (“This court exercises independent judgment on purely legal questions.”).

A. Minn. Stat. § 504B.271

Janavaras contends that the district court erred in concluding that Twin Town complied with Minn. Stat. § 504B.271. He maintains that the district court should have determined that Twin Town was liable for damages under Minn. Stat. § 504B.271 because it did not allow Janavaras access to the premises after Janavaras’s written demand.

If a tenant abandons (or is evicted from) a rented premises and leaves personal property on the premises, the landlord may take possession of the property and store and care for the property on the premises. Minn. Stat. § 504B.271, subd. 1(a); *see also* Minn. Stat. § 504B.365, subd. 3(d) (2018) (applying the provisions of Minn. Stat. § 504B.271 to property stored on the premises following eviction). The landlord may sell the property “28 days after the landlord receives actual notice of the abandonment, or 28 days after it

reasonably appears to the landlord that the tenant has abandoned the premises, whichever occurs last.” Minn. Stat. § 504B.271, subd. 1(b). The landlord must make reasonable efforts to notify the tenant at least 14 days before a sale. *Id.*, subd. 1(d). Proceeds of the sale may offset the landlord’s cost of removal, care, and storage of the property, and any remaining proceeds must be paid to the tenant upon a written demand. *Id.*, subd. 1(c).

Upon a written demand by the tenant, the landlord in possession of property must allow the tenant to retake possession of the personal property within 24 hours if it is stored on the premises. *Id.*, subd. 2. If the landlord fails to allow the tenant to retake possession of the property after written demand, the tenant shall recover actual and punitive damages. *Id.* Any provision in a lease whereby the tenant agrees to waive a provision of Minn. Stat. § 504B.271 is contrary to public policy and void. *Id.*, subd. 4.

The district court determined that Twin Town complied with the requirements of Minn. Stat. § 504B.271 and was not liable for damages under subdivision 2. It found that the premises became abandoned when the lease expired on August 1, 2016, and that the property left there became subject to the provisions of Minn. Stat. § 504B.271.⁴ Though Janavaras made requests to access the property on August 26, August 30, September 8, and

⁴ Janavaras asserts that the district court erroneously applied the affirmative defense of abandonment to relieve Twin Town of liability under Minn. Stat. § 504B.271 and his other counterclaims. Abandonment is an affirmative defense that applies when one party voluntarily relinquishes his ownership of property. *See In re Application of Berman*, 247 N.W.2d 405, 408 (Minn. 1976) (“Abandonment is defined as a voluntary relinquishment of an interest by the owner with the intent of terminating his ownership.”). Abandonment under Minn. Stat. § 504B.271, in contrast, is the event of the tenant leaving the leased premises by eviction, expiration of the lease, or other means. We conclude that the district court’s discussion of “abandonment” in this case related to the event of abandonment as contemplated by Minn. Stat. § 504B.271—not the affirmative defense of abandonment.

September 13, the district court concluded that Janavaras never made the slightest attempt to remove all the inventory from the premises. We conclude that the evidence supports the district court's factual finding regarding Janavaras's lack of intent to remove the inventory and that damages under Minn. Stat. § 504B.271 are inappropriate.

Janavaras does not specifically contest any of the district court's factual findings, but to the extent that Janavaras contends that the district court clearly erred in finding that Janavaras never intended to remove the inventory from the premises, we disagree. Evidence was presented to support that: Janavaras made no arrangements to remove the inventory following the 2015 eviction settlement or during the most recent lease term that ended on August 2016; Janavaras did not ask for access to the premises until late August; and given the opportunity to remove the inventory in late September, Janavaras removed only a few items from the premises. In October 2016, when Janavaras was at the premises removing a few select items, he told Barry Anderson, a representative of Twin Town, that he never intended to vacate the premises and that he had no place to store the inventory. Considering Janavaras's conduct and statements, the district court did not err in finding that Janavaras did not intend to remove the inventory and that his requests to access the premises to remove the goods were not genuine.

Given the unique facts of this case, we also conclude that the district court correctly determined that Twin Town was not liable for damages under Minn. Stat. § 504B.271, subd. 2. Janavaras argues that Twin Town's failure to allow Janavaras access to the premises within 24 hours of his September 8 and September 13 requests was a violation of the statute, but the requests must be considered in the context of the parties' past

interactions. Janavaras failed to remove his massive inventory following the first eviction action in 2015 after agreeing to vacate the premises by January 31, 2016. He failed to do so again during the term of the February 1 to August 1, 2016 lease, which was entered into for the express purpose of giving Janavaras time to liquidate his inventory and vacate the premises. While Janavaras had expressed an interest in staying at the premises to continue to sell or auction off his inventory after August 1, it was reasonable to believe, and the district court ultimately found, that Janavaras did not intend to actually remove his inventory from the premises at any point in time. The evidence and the district court's findings of fact support the conclusion that Janavaras's requests to remove the inventory were not genuine. And, though Twin Town was not initially cooperative with Janavaras's requests to access the premises to remove inventory, Twin Town eventually allowed Janavaras unconditional access to the premises from September 28, 2016 to October 21, 2016. Janavaras made no effort to remove the inventory during that time. Later, he waived his right to recover the inventory and did not object to Twin Town selling the inventory. Because the district court found that Janavaras never actually intended to remove his inventory from the premises, and because Twin Town eventually gave Janavaras unconditional access to the premises to retake possession of the inventory that was left there, we agree with the district court's determination that Twin Town did not violate Minn. Stat. § 504B.271, subd. 2. Janavaras is not entitled to damages under that provision.

B. Conversion

Janavaras argues that the district court erred in concluding that Twin Town did not convert his inventory by changing the locks to the premises on July 21, 2016—before the writ of recovery of premises issued and before the lease expired.

“Conversion occurs where one willfully interferes with the personal property of another without lawful justification, depriving the lawful possessor of use and possession.” *Williamson v. Prasciunas*, 661 N.W.2d 645, 649 (Minn. App. 2003) (quotations omitted). The elements of conversion are “(1) plaintiff holds a property interest; and (2) defendant deprives plaintiff of that interest.” *Id.* “To constitute conversion, one must exercise dominion over property that is inconsistent with the owner’s right to the property, or some act must be done that destroys or changes the character of the property or deprives the owner of possession permanently or for an indefinite length of time.” *McKinley v. Flaherty*, 390 N.W.2d 30, 32 (Minn. App. 1986). Conversion requires that the actor have the intent to commit an act that results in dispossession of the property, and that “his act be one which he knows to be destructive of any outstanding possessory right, if such there be.” *Christensen v. Milbank Ins. Co.*, 658 N.W.2d 580, 586 (Minn. 2003) (quoting Restatement (Second) of Torts § 222 cmt. c (1965)).

The district court concluded that Twin Town did not convert Janavaras’s property because Twin Town had not willfully interfered with or deprived Janavaras of his inventory.

We review findings of fact following a bench trial to determine whether the district court’s findings are “clearly erroneous.” *Birch Publ’ns, Inc.*, 683 N.W.2d at 872 (quotation

omitted). The district court's finding that Twin Town had not willfully interfered with or deprived Janavaras of his inventory was not clearly erroneous. The district court found, and the evidence supports, that Anderson accessed the premises on July 21, 2016, to begin cleaning the premises to bring it into compliance with the fire code. Because Janavaras never provided Twin Town with a master key, as required by the lease, Twin Town needed to change the locks when Anderson entered the premises. Though Janavaras's employee and daughter were unable to access the premises on July 30, Janavaras never contacted Twin Town for a copy of the new key.

Given the district court's factual finding that Twin Town did not willfully interfere with or deprive Janavaras of his inventory, we determine that the district court correctly concluded Twin Town did not convert Janavaras's inventory by changing the locks. An actor does not convert property unless he *willfully interferes with* the personal property of another and deprives the owner of use or possession of the property. *Williamson*, 661 N.W.2d at 649.

Janavaras also argues that the district court erred in finding that Twin Town did not convert his inventory by failing to return it to him after the lease expired. Because we have determined that Twin Town complied with Minn. Stat. § 504B.271 in keeping and disposing of the inventory, we conclude that Twin Town did not convert the inventory by keeping it after the lease expired.

C. Civil Theft

Janavaras also contends that the district court erred in not finding that Twin Town stole his property under Minn. Stat. §§ 604.14, 609.52 (2018). A person commits theft

when he “intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other’s consent and with intent to deprive the owner permanently of possession of the property.” Minn. Stat. § 609.52, subd. 2(a)(1). A person also commits theft if he exercises temporary control of property in a manner that “manifests an indifference to the rights of the owner or the restoration of the property to the owner,” or if “the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation.” *Id.*, subd. 2(5)(i), (iii). A person guilty of theft may be liable for civil damages to the rightful owner under Minn. Stat. § 604.14, subd. 1.

Janavaras argues that Twin Town committed civil theft by changing the locks to the premises and proposing that Janavaras pay to access it. Janavaras characterizes proposals made by Twin Town to allow Janavaras to stay at the premises for a longer period of time and a proposal that Janavaras post a bond before accessing premises after litigation began as demands that Janavaras pay money for access to the premises. The district court found that because Twin Town did not act to deprive Janavaras of his inventory permanently or temporarily, it was not liable for civil theft. We agree. The district court’s factual finding that Twin Town did not act to deprive Janavaras of his property by changing the locks was not clearly erroneous—as discussed above, the evidence supported a finding that Twin Town changed the locks with the intent to bring the premises into compliance with the fire code. We also conclude that the district court did not err in not considering the parties’ negotiations for a new lease and post-complaint proposal regarding the bond as theft because Twin Town ultimately complied with the applicable statute regarding property left

at a rented premises. Considering the district court's finding that Twin Town did not have the intent to deprive Janavaras of his inventory before the lease expired, the district court correctly concluded that Twin Town did not commit civil theft.

IV. The district court did not err in calculating damages awarded to Twin Town for breach of contract.

Janavaras argues that the district court erred in awarding damages to Twin Town for breach of contract. We review the district court's award of damages for abuse of discretion. *VanLandschoot v. Walsh*, 660 N.W.2d 152, 156 (Minn. App. 2003).

First, Janavaras argues that the district court should not have awarded damages to Twin Town for storage fees and the cost to change the locks because Twin Town unlawfully changed the locks and then kept the inventory in violation of Janavaras's rights. As discussed above, we have concluded that Twin Town did not convert or steal Janavaras's inventory and that Twin Town complied with Minn. Stat. § 504B.271 in storing and disposing of the inventory. Consequently, we find that this argument has no merit.

Janavaras also maintains that the district court improperly recharacterized Twin Town's unpaid rent claims—which were dismissed at summary judgment—when calculating Twin Town's cost of storing the inventory at the premises. The district court awarded damages for storage fees under the provision of the lease that provided that Janavaras was liable for the costs of removing any property that remained on the premises after the lease expired. The court determined that the cost of storing the inventory at the premises was properly considered a cost of removal, and that the measure of the cost of storing the inventory was forgone rent. The district court awarded \$21,000 in storage fees,

which was the equivalent of six months of forgone rent (from October 2016 to March 2017). We find no merit to Janavaras's argument that the district court revived the dismissed claim for unpaid rent—the rent was used as a measure for the cost of storing the inventory. The record supports the damages award, and we conclude that the district court did not abuse its discretion in awarding \$21,000 in damages for the costs of storing the inventory at the premises.

Janavaras's other arguments regarding the district court's damages award also are not supported by the record. He contends that the district court erroneously ordered \$1,540 in damages related to fines associated with Janavaras's fire code violations at the premises. The city of Minneapolis assessed fines against the property in the amounts of \$220, \$440, and \$880. Janavaras argues that the \$880 fine included the other two fines and that the \$1,540 award was not supported by the evidence. Anderson, however, testified that each fine was assessed separately. Consequently, the district court did not err in awarding the cumulative total of all three fines as breach-of-contract damages.

Janavaras argues that Anderson broke the window to access the property before Twin Town changed the locks. The record contains evidence that the window was broken before Anderson accessed the property—Anderson testified that he entered the premises, in part, to repair the broken window. Repairing broken windows was Janavaras's responsibility under the parties' lease. Consequently, the district court acted within its discretion in awarding breach-of-contract damages to Twin Town for the cost to repair the broken window.

Finally, Janavaras argues that once the damages are reduced to the amount that he suggests is appropriate, the attorney fees awarded by the district court are not reasonable in relation to the damages award and must be reduced.⁵ Because we conclude that the district court did not abuse its discretion in awarding damages for breach of contract, we need not consider Janavaras's argument regarding attorney fees.⁶

Affirmed.

⁵ Janavaras's only challenge to the district court's attorney fees award is that, if the damages are reduced, they are not reasonable in relation to the amount of the judgment. See *Bloomington Elec. Co. v. Freeman's, Inc.*, 394 N.W.2d 605, 608 (Minn. App. 1986) (indicating that an award for attorney fees must be "in reasonable relation to the amount of the judgment secured"), review denied (Minn. Dec. 12, 1986). He does not argue that the attorney fees award is unreasonable in relation to the amount of damages that the district court actually ordered.

⁶ Janavaras also maintains on appeal that this court should remand with instructions to the district court to determine the retail value of the property that Janavaras left on the premises. Janavaras argues that the measure of damages for civil theft under Minn. Stat. § 604.14, subd. 1, is the retail value of merchandise stolen. Because the district court correctly determined that Twin Town did not commit civil theft, there is no reason to remand for further findings on the value of the property. The district court properly applied Minn. Stat. § 504B.271, subd. 1(c), to offset the proceeds of Twin Town's sale of the inventory to the breach-of-contract damages awarded to Twin Town.