

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0083**

Ellis Evans,
Respondent,

vs.

Ian Niklas,
Appellant.

**Filed October 18, 2021
Affirmed
Larkin, Judge**

Ramsey County District Court
File No. 62-CV-20-99

Kip W. Kootz, Kootz Law, PLLC, St. Paul, Minnesota (for respondent)

Ian Niklas, Minneapolis, Minnesota (pro se appellant)

Considered and decided by Bratvold, Presiding Judge; Larkin, Judge; and Jesson,
Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

After the termination of a tenancy, appellant-landlord withheld respondent-tenant's entire security deposit to pay for lock replacement and cleaning costs. Respondent sued for the return of her security deposit, and the district court awarded her a portion of the

deposit. Appellant challenges the district court's findings and alleges other errors in the proceedings. We affirm.

FACTS

Respondent Ellis Evans and her roommate leased an apartment from pro se appellant Ian Niklas for a one-year term beginning on July 1, 2018. Evans's mother co-signed the lease. The lease prohibited anyone other than Evans and her roommate from living in the apartment without Niklas's prior written permission. It also prohibited pets without Niklas's prior written permission.

Consistent with the terms of the lease, Evans and her roommate paid a security deposit of \$1,350. Niklas was required to return the security deposit at the end of the tenancy, less certain deductions authorized in the lease. The lease authorized Niklas to deduct money from the security deposit for "repairs or cleaning due to any damage beyond normal wear and tear" and for "replacement of locks and/or lost keys" to the apartment.

Evans and her roommate took possession of the apartment on July 1, 2018. In August 2018, Niklas, Evans, and Evans's roommate signed a pet deposit disclosure in which Niklas agreed that one cat and one small dog could reside in the apartment. Evans paid an additional \$300 as a pet deposit and agreed that Niklas could use the security deposit if the pet deposit was not sufficient to cover any pet damages.

Around March 2019, Evans made an extra set of keys to the apartment for her boyfriend. She did so without seeking approval from her roommate or Niklas, believing that it was "an issue of her privacy." Evans's roommate notified Niklas because she was not comfortable with Evans's boyfriend being in the apartment when Evans was not there.

The relationship between Evans and her roommate soured. As a result, the parties agreed to terminate the lease one month early, after Niklas found another tenant. The lease ended on May 31, 2019.

At the end of the lease term, Niklas inspected the apartment for damage. He alleged that Evans and her roommate left the apartment in poor condition and that there was pet damage. Niklas refused to return the security deposit and pet deposit, claiming that he needed the entire amounts to replace the locks and clean the apartment. Evans was not present during Niklas's "walk-through" of the apartment because she went on vacation to "clear her head." However, Evans's mother testified that the apartment was clean when Evans moved out.

In October 2019, Evans sued Niklas in conciliation court, seeking the return of her portion of the security deposit, as well as additional damages and fees. The conciliation court determined that Niklas properly withheld a portion of the security deposit "for lock expense and minor cleaning" and that Evans was entitled to the remainder of the security deposit. The conciliation court awarded Evans \$675 in damages plus \$80 in fees.

Niklas removed the case to district court in January 2020. The district court held a court trial. At trial, Niklas submitted 163 photos and ten videos to support his allegations regarding damage to the apartment. Evans and her mother asserted that Niklas had falsified the photos. Niklas also submitted cleaning bills as evidence of his expenses, but he redacted the addresses of the companies that he had used.

The district court awarded Evans a portion of her security deposit, in addition to attorney and filing fees. It determined that Niklas was entitled to withhold some of the

security deposit to change the locks and replace the keys because Evans made an extra set of keys for her boyfriend and did not turn them in. Although Niklas submitted evidence that the cost to replace the locks was \$330, the district court found that \$200 was a reasonable amount. The district court also found that there was some pet-related damage to the apartment. But the district court determined that Niklas's claimed expenses of \$450 for pet-related cleaning was excessive and that \$100 was a reasonable amount. Finally, the district court found that any cleaning beyond the pet damages was for "normal wear and tear," the costs of which could not be withheld from the security deposit. In reaching that determination, the district court declined to consider receipts that Niklas had submitted because he redacted the vendors' addresses and phone numbers and did not present witness testimony to verify the expenses. In sum, the district court concluded that Niklas was entitled to withhold \$300 from the security deposit and awarded Evans \$675 of her \$975 security deposit.¹

Niklas appealed to this court. This court dismissed the appeal because Niklas did not pay the filing fee or file a completed certificate as to transcript. Niklas moved to reinstate the appeal, paid the appellate filing fee, and requested to proceed without court transcripts. This court reinstated the appeal. Evans did not submit a brief, and this court ordered the appeal to proceed pursuant to Minn. R. Civ. App. P. 142.03 (providing that if respondent fails to file a brief, the case shall be determined on the merits).²

¹ It appears that Evans contributed one half of the \$1,350 security deposit and the additional \$300 pet deposit, for a total of \$975.

² Evans eventually moved this court to accept a late brief, but this court denied that motion.

DECISION

We begin by setting forth the principles that govern our review in this case. Although we may make some accommodations for pro se litigants, we generally hold them to the same standards as attorneys. *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Moreover, error is never presumed on appeal: “It must be made to appear affirmatively before there can be reversal. . . . [T]he burden of showing error rests upon the one who relies upon it.” *Loth v. Loth*, 35 N.W.2d 542, 546 (Minn. 1949) (quotation omitted). We will not consider assertions of error that are not supported by legal authority or argument, unless prejudicial error is obvious on mere inspection. *State v. Mod. Recycling, Inc.*, 558 N.W.2d 770, 772 (Minn. App. 1997). Finally, any error must be prejudicial for a party to obtain relief on appeal. See Minn. R. Civ. P. 61 (requiring the court to disregard harmless error). With those principles in mind, we turn to Niklas’s assignments of error.

I.

We begin with Niklas’s primary contention on appeal: The district court erred in determining that Evans was entitled to \$675 of her security deposit. Within three weeks after the termination of a tenancy, a landlord must either return the security deposit to the tenant or provide the tenant with a written statement showing the specific reason for withholding the security deposit. Minn. Stat. § 504B.178, subd. 3(a)(1) (2020). The landlord may withhold from the deposit only the amounts reasonably necessary “to remedy tenant defaults in the payment of rent or of other funds due to the landlord pursuant to an agreement” or “to restore the premises to their condition at the commencement of the

tenancy, ordinary wear and tear excepted.” *Id.*, subd. 3(b) (2020). The landlord has the burden of proving, by a preponderance of the evidence, the reason for withholding the security deposit. *Id.*, subd. 3(c) (2020).

Niklas argues that he was entitled to withhold the entire security deposit to pay for lock replacement, cleaning costs for pet-related damages, and other cleaning costs. He challenges the district court’s factual findings regarding those issues. On appeal from a court trial, we review the district court’s factual findings for clear error and give due regard to the district court’s opportunity to assess witness credibility. Minn. R. Civ. P. 52.01. We view the evidence “in the light most favorable to the verdict” and determine whether “there is reasonable evidence” in the record to support the findings. *Rasmussen v. Two Harbors Fish Co.*, 832 N.W.2d 790, 797 (Minn. 2013) (quotation omitted). A finding is clearly erroneous when we are “left with the definite and firm conviction that a mistake has been made.” *Id.* (quotations omitted).

Lock Replacement

Niklas challenges the district court’s finding regarding the cost of lock replacement. The district court acknowledged Niklas’s evidence that the cost to replace the locks was \$330, but the court found that “a reasonable amount of damages for the costs of replacing the locks and going to the police station to get the spare keys is \$200.”

Although the district court did not explain how it arrived at the \$200 figure, it referenced exhibits that Niklas offered as evidence. Specifically, Niklas sent Evans and her roommate a letter shortly after they moved out of the apartment, which detailed the expenses he allegedly incurred for cleaning and repairing the apartment. He listed \$330

for “[m]iscellaneous fix-ups and replace locks.” The reference to “[m]iscellaneous fix-ups” suggests that some of the \$330 was used for repairs unrelated to the locks. The cleaning bills and receipts that Niklas submitted do not explain how much of the \$330 was for “[m]iscellaneous fix-ups” or the nature of the “[m]iscellaneous fix-ups.” The district court mentioned the “[m]iscellaneous fix-ups” in finding that the cost to replace the locks was less than the \$330 that Niklas claimed.

As the appellant, Niklas has the burden of showing error. *See Loth*, 35 N.W.2d at 546. And, he has the burden of providing an adequate record. *Mesenbourg v. Mesenbourg*, 538 N.W.2d 489, 494 (Minn. App. 1995). Yet he chose not to provide a transcript on appeal. The lack of a transcript hinders our review, in that we cannot determine whether Niklas explained his calculations at trial or whether Evans challenged those amounts. *See id.* at 492 (“When an appellant fails to provide a transcript, the reviewing court is limited to deciding whether the [district] court’s conclusions of law are supported by the findings.”). On this record, which does not include a transcript of the trial in district court, we are not left with a definite and firm conviction that the district court erred by finding that the cost of lock replacement was \$200.

Cleaning Costs for Pet-Related Damage

Niklas also challenges the district court’s finding regarding the cleaning costs for pet-related damage. Niklas claimed that the cost of pet-related damage was \$450, but the district court found that amount excessive based on the photos that Niklas submitted. It determined that a “reasonable amount of damages for pet-related cleanup is \$100.”

Niklas argues that it was improper for the district court to reject his claimed cost of \$450 and then to “assign prices after the fact.” At trial, he submitted a document indicating that he had been billed \$450 for “[e]mergency pet cleaning.” However, he redacted the address and phone number of the vendor. The district court did not rely on the document because Niklas’s redaction of the contact information prevented Evans from cross-examining the vendor and because Niklas did not call any witnesses to verify the cleaning charges. Essentially, the district court’s decision not to rely on the document that Niklas submitted was a credibility determination to which we defer. *See* Minn. R. Civ. P. 52.01.

Viewing the evidence in the light most favorable to the verdict, we are not left with a definite and firm conviction that the district court erred by finding that the cost of cleaning pet-related damage was \$100.

Other Cleaning Costs

Niklas appears to challenge the district court’s finding that any cleaning beyond pet-related damages was attributable to normal wear and tear. As was the case with the pet-related cleaning expenses, Niklas submitted cleaning bills to the district court, but the district court did not rely on them because the vendors’ contact information had been redacted. Once again, that decision was a credibility determination to which we defer.

In sum, the district court did not clearly err in its findings limiting Niklas’s retention of the security deposit to \$300.

II.

Niklas makes several other arguments. We discuss them briefly, but none provide a basis for relief.

Niklas contends that Evans violated the lease by allowing her boyfriend to stay at the apartment and by making secret copies of the keys. The district court agreed with Niklas on this issue, and we have already rejected Niklas's related assertion of error regarding the cost of lock replacement.

Niklas objects to the testimony by Evans's mother that he "doctored" the photos showing the damage to the apartment. He insists that those statements were a "direct slander," which the judge should not have allowed in the courtroom. The district court found that Evans's mother was not credible because she offered no evidence to explain how Niklas could have falsified the photos. As a result, it determined that Niklas was entitled to withhold a portion of the security deposit to pay for pet-related cleaning. We have already rejected Niklas's related assertion of error regarding the costs attributable to pet damage.

Niklas points to the district court's finding that Evans was not present at the "move-out walk-through" because she went on vacation to "clear her head." He argues that Evans's absence made the walk-through impossible and created "havoc" and "confusion" for him. It is unclear how that confusion establishes district court error.

Niklas alleges that Evans threatened him after she moved out of the apartment and "was stalking the workers who provided invoices." We construe Niklas's argument as a challenge to the district court's refusal to credit his redacted exhibits. But we have already determined that the district court's approach is based on a credibility determination to which we defer.

Niklas asserts that the district court should not have allowed Evans's claim to proceed because her roommate did not appear in court. According to Niklas, Evans and her roommate had to bring a joint claim for recovery of the security deposit because they signed a joint lease, and the district court exhibited bias by proceeding in the roommate's absence. Niklas relies on the following lease provision: "Where there is more than one Tenant executing this Lease, all Tenants are jointly and severally liable for each other's acts, omissions and liabilities pursuant to this Lease." Niklas does not provide legal argument or authority establishing that the district court erred by allowing Evans to proceed with her claim against Niklas individually. Moreover, our review of the limited record reveals no indication of judicial bias.

Niklas also asserts that Evans's attorney should not have been allowed to represent her in this matter because he was under investigation for unethical conduct while this case was pending. He notes that the Director of the Office of Lawyers Professional Responsibility had petitioned for disciplinary action against Evans's attorney. But the Minnesota Supreme Court did not discipline Evan's attorney until April 2021. *In re Disciplinary Action Against Kootz*, No. A21-0352 (Minn. Apr. 29, 2021) (order). Counsel represented Evans in conciliation court beginning in October 2019, and the district court trial was held in August 2020. Once again, Niklas does not provide legal argument or authority supporting his assignment of error.

In sum, Niklas's other arguments do not establish reversible error.

Affirmed.