

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A12-33**

Sirad Osman,  
Respondent,

vs. Abdirashid Ibrahim, et al.,  
Appellants.

**Filed July 30, 2012  
Affirmed  
Stoneburner, Judge**

Dakota County District Court  
File No. 19HA-CV-10-5547

Edward E. Backmann, Hellmuth & Johnson, PLLC, Edina, Minnesota (for respondent)

Erik F. Hansen, Patrick Burns & Associates, Minneapolis, Minnesota (for appellants)

Considered and decided by Stoneburner, Presiding Judge; Peterson, Judge; and  
Hudson, Judge.

**UNPUBLISHED OPINION**

**STONEBURNER**, Judge

In this property-damage case, appellant challenges the district court's authority to grant respondent's posttrial motion to amend the judgment and argues that respondent's attorney-fee award should be reduced because respondent did not prevail on all of his claims and because the fees were disproportionate to the recovery. Because the district court has absolute authority and right to reconsider any previous order, respondent is

entitled to attorney fees under the lease agreement, and the district court determined the reasonableness of the fees claimed, we affirm.

## FACTS

Appellant Abdirashid Ibrahim leased a townhome in Eagan from respondent Sirad Osman. After Ibrahim vacated the property at the end of the lease, Osman sued Ibrahim, alleging that Ibrahim breached the lease agreement by willfully and maliciously committing waste and destruction of property at the townhome. Osman sought \$8,852.49 in damages plus costs, disbursements, and attorney fees pursuant to the terms of the lease.<sup>1</sup> Ibrahim answered and counterclaimed against Osman for failing to return Ibrahim's security deposit of \$1,450.

A jury trial was held on August 15-16, 2011. The jury returned a special verdict, finding that Ibrahim breached the lease "by causing damage to the rental unit that was not normal wear and tear," but did not cause the damage "willfully and maliciously." The special-verdict form asked: "What amount of money is needed to fairly and adequately compensate the Landlord for the damage to the rental unit?" The jury answered, "\$2,050." The jury also found that Ibrahim had given Osman \$1,450 as a security deposit, but, in response to the question on the special verdict form asking, "[W]hat

---

<sup>1</sup> The lease contains two provisions requiring a resident to pay attorney fees and costs for litigation initiated by the landlord. Paragraph 21 states, in relevant part: "[i]f MANAGEMENT brings any legal action against RESIDENT, RESIDENT must pay MANAGEMENT'S actual attorney's fees, or other legal fees and expenses . . . ." Paragraph 27, in relevant part, requires a resident to reimburse management for any property damage and all court costs and attorney fees that management has in any action for any charge.

amount of money should be returned to Tenants from the security deposit?” the jury indicated “\$0.”

The district court issued findings of fact based on the special verdict and ordered judgment to be entered for Osman in the amount of \$600, the difference between the amount the jury found needed to compensate Osman for the damage and the amount of the security deposit. The district court also held that Osman is entitled to attorney fees and costs under the lease.

Osman filed a posttrial motion for an amended judgment<sup>2</sup> arguing that, based on the evidence presented at the trial, the jury’s determination of the amount needed to compensate him for the damage was in addition to the security deposit that the jury found that Osman was entitled to keep and that the district court erred by finding that the damages awarded should be offset by the amount of the security deposit. Osman also requested \$13,679.75 in costs and attorney fees.

A district court judge who had not presided at the trial heard and granted Osman’s posttrial motions. The judgment was amended as Osman requested without findings or explanation by the district court. The district court found that the lease provided for recovery of attorney fees and costs and that the attorney fees and costs requested are reasonable. The district court ordered judgment in the amount of \$15,729.75 (\$13,679.75 for attorney fees and costs plus \$2,050 for damages). This appeal followed.

---

<sup>2</sup> Judgment had not been entered, so Osman’s motion was actually a motion to amend the implicit finding by the district court of the jury’s intent and to amend the order for judgment accordingly.

## DECISION

### I. Amended damages

Ibrahim first argues that the district court erred by amending the amount of the judgment. We disagree. Issues of fact that are not submitted to the jury on the special verdict form are left to the district court to decide. Minn. R. Civ. P. 49.01(a); *Milner v. Farmers Ins. Exch.*, 748 N.W.2d 608, 618 (Minn. 2008). “The judge has authority to liberally construe special verdicts to determine the jury’s intention.” *Automated Systems, Inc. v. Nat’l Indem. Co.*, 269 N.W. 2d 749, 752 (Minn. 1978). Minn. R. Civ. P. 52.02 provides that, on timely motion, the district court may amend its findings or make additional findings and may amend the judgment accordingly if judgment has been entered. And the supreme court has recognized that a court of general jurisdiction has authority to reconsider a previous order when satisfied that such action is proper. *Lehman v. Norton*, 191 Minn. 211, 213, 253 N.W. 663, 664 (1934). In *Lehman*, the supreme court rejected the argument that a district court abuses its discretion by reconsidering a previous order, except on discovery of new evidence that was not available at the time of the first order. *Id.* The supreme court stated: “It is not a matter of discretion. The [district] court has the absolute power and right to reconsider any previous order.” *Id.*

Ibrahim argues that the district court cannot amend its previous order absent a finding that the verdict was “perverse and palpably contrary to the evidence” or that “the evidence is so clear as to leave no room for differences among reasonable people.” *See Navarre v. S. Washington Cnty. Schs.*, 652 N.W.2d 9, 21 (Minn. 2002) (stating that an

appellate court “will not set aside a jury verdict on an appeal from a district court’s denial of a motion for a new trial unless it is manifestly and palpably contrary to the evidence viewed as a whole and in the light most favorable to the verdict” (quotations omitted). But this case does not involve appellate review of inconsistent special-verdict answers and, on appeal, there is nothing to “reconcile” about the jury’s answers. The issue is purely one of the jury’s intent, a matter that Ibrahim concedes is wholly within the power of the district court to determine.

Ibrahim also argues that the posttrial order is insufficient to enable appellate review. *See Woodrich Constr. Co. v. State*, 287 Minn. 260, 263, 177 N.W.2d 563, 565 (1970) (stating that the district court must make sufficient findings to reach the conclusions of law and permit meaningful appellate review). But this case does not involve a challenge to findings of fact or conclusions of law. And Ibrahim has cited no authority for his assertion that the district court must make findings regarding a district court’s decision to revisit its interpretation of the jury’s intent. Ibrahim’s argument that the judge who presided at trial was in the best position to resolve any ambiguity created by the special-verdict questions has merit, but he cites no authority for his implied assertion that only the trial court judge can determine the jury’s intent. Ibrahim does not assert that the amended judgment is erroneous as a matter of law. The district court acted within its absolute authority in interpreting the intent of the jury.

## **II. Attorney fees**

Ibrahim next challenges the district court’s award of attorney fees. This court will not reverse a district court’s award of attorney fees unless the district court abused its

discretion by making the award. *Becker v. Alloy Hardfacing & Eng'g Co.*, 401 N.W.2d 655, 661 (Minn. 1987).

Ordinarily, a party may not recover attorney fees unless a statute or contract provision expressly allows such recovery. *Barr/Nelson, Inc. v. Tonto's, Inc.*, 336 N.W.2d 46, 53 (Minn. 1983); *see also O'Donnell v. McGee Trucks, Inc.*, 294 Minn. 110, 112, 199 N.W.2d 432, 434 (1972) (affirming attorney-fee award based on contractual provision authorizing award of attorney fees to plaintiffs). As the district court found, the lease agreement between Osman and Ibrahim contains two provisions requiring a resident to be responsible for attorney fees incurred by management.

The district court found that the fees and costs itemized were reasonable, included “typical, ordinary and necessary trial preparation,” and reflected time and cost-saving efforts. The district court also observed that Ibrahim needlessly increased Osman’s attorney fees by failing to serve and file amended pleadings after a pretrial motion hearing at which Ibrahim requested to amend the pleadings. These findings reflect the district court’s careful consideration of the reasonableness of the attorney-fee request.

Ibrahim argues that the district court failed to consider the limited financial recovery Osman obtained and the fact that Osman did not prevail on several claims at trial. The “prevailing party” requirement does not apply to fee awards that are authorized by contract, unless the contract includes a “prevailing party” requirement. *See Oleisky v. Midwest Fed. Sav. & Loan*, 398 N.W.2d 627, 629 (Minn. App. 1986) (holding that a party may receive an award of contractually authorized attorney fees even if the party

was not the prevailing party in the action), *review denied* (Minn. Feb. 18, 1987). Here, the lease agreement does not include a “prevailing party” requirement.

Ibrahim argues that the district court erred by failing to consider his status as an in forma pauperis litigant. But Ibrahim fails to cite any authority requiring consideration of a party’s ability to pay when assessing a contractually required attorney-fee award.

**Affirmed.**