

**COURT OF APPEALS
DECISION
DATED AND FILED**

July 5, 2000

Cornelia G. Clark
Clerk, Court of Appeals
of Wisconsin

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.

No. 99-2636

STATE OF WISCONSIN

IN COURT OF APPEALS
DISTRICT II

MARK A. FLOOD,

PLAINTIFF-RESPONDENT,

v.

ROBERT A. BENKOSKI,

DEFENDANT-APPELLANT.

APPEAL from a judgment and orders of the circuit court for Fond du Lac County: DALE L. ENGLISH, Judge. *Affirmed.*

¶1 NETTESHEIM, J.¹ Robert A. Benkoski appeals from a judgment and orders of the circuit court that denied his motion for summary judgment and granted plaintiff Mark A. Flood's motion for summary judgment, denied his

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (1997-98).

motion to reconsider, and awarded Flood holdover damages. This action originated from a landlord/tenant dispute whereby Flood sought to evict four mobile homes owned by Benkoski from his mobile home park because Benkoski failed to sign lease renewals that were tendered to him. In his appellant's brief, Benkoski raises three issues: (1) that certain clauses in the renewal leases were violative of Wisconsin law; (2) that the clauses mandated a change in occupancy, thereby depriving him of his right to lease renewal; and (3) that Flood's actions constituted acceptance of his counteroffer.

¶2 However, by this court's previous order of April 19, 2000, we held that our jurisdiction was limited to the circuit court's award of holdover damages by its October 5, 1999 order. *See Flood v. Benkoski*, No. 99-2636 (Ct. App. Apr. 19, 2000) (order limiting jurisdiction). All issues surrounding the court-ordered judgment of eviction in favor of Flood were waived because Benkoski's notice of appeal was untimely as to those earlier proceedings.² *See id.* Benkoski, however, failed to address the issue of holdover damages—his only live issue—in his brief to this court. Therefore, the issue of holdover damages is waived as well. *See Reiman Assocs., Inc. v. R/A Adver., Inc.*, 102 Wis. 2d 305, 306 n.1, 306 N.W.2d 292 (Ct. App. 1981) (issues not briefed or argued on appeal are waived).

¶3 Because Benkoski has waived his only remaining issue before this court, we affirm the judgment and orders of the circuit court.

By the Court.—Judgment and orders affirmed.

² In our order of April 19, 2000, Flood's cross-appeal was also dismissed as untimely.

This opinion will not be published.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

