

**COURT OF APPEALS
DECISION
DATED AND FILED**

June 28, 2007

David R. Schanker
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. 2006AP1101

Cir. Ct. No. 2005SC9823

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

DERRICK TAYLOR AND ANITA TAYLOR,

PLAINTIFFS-RESPONDENTS,

V.

TASHAE SEALS,

DEFENDANT,

T-JUANA SEALS,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Dane County:
ANGELA B. BARTELL, Judge. *Affirmed.*

¶1 DYKMAN, J.¹ T-Juana Seals appeals from a judgment awarding Anita and Derrick Taylor \$1500 for unpaid rent for the month of August 2005. Seals argues that the trial court erred in finding that she owed the Taylors one month's rent. We conclude there is sufficient evidence supporting the trial court's finding that the Taylors and Seals orally agreed on a lease, and that Seals is therefore liable for the unpaid August rent.

Background

¶2 The following facts are taken from the court record, the trial transcripts, and the parties' briefs. The Taylors and Seals met in late July or early August 2005, and discussed Seals renting an apartment owned by the Taylors. Seals told the Taylors that she would apply for Section 8 assistance for the apartment and that if her application was approved, she would pay the rent for August and September and in October, Section 8 payments would start. Seals gave the Taylors a check for \$1500 with "August rent" in the memo line,² and the Taylors gave Seals a set of keys to the apartment.

¶3 The parties disagree over what happened after the Taylors gave Seals the keys to the apartment. Anita Taylor testified that Seals moved some of her property into the apartment, her family was present at the apartment, and the Taylors saw Seals at the apartment numerous times. She said that Seals had moved bags and sleeping pallets into the apartment, and Seals and her family used the apartment for two weeks. Seals claims she never moved into the apartment, and only had the keys for one week. She claims the Taylors did not give her an

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(a) (2001-02). All references to the Wisconsin Statutes are to the 2001-02 version unless otherwise noted.

² The \$1500 check was drawn on Seals' daughter's checking account.

unsigned lease with the required dates for her Section 8 approval. Seals testified that she did not seek Section 8 approval both because she did not have the proper lease from the Taylors and because she changed her mind about renting the apartment because she needed a bigger apartment for her family. In any event, when the Taylors tried to cash the \$1500 check from Seals around August 15, 2005, they found that there was a stop payment on the check. The Taylors brought this action to collect August rent from Seals.

¶4 At trial, the court found that an oral lease existed between the parties to rent the apartment for August and September 2005.³ Seals appeals.

Discussion

¶5 Seals argues that she never signed a written lease and is therefore not liable for August rent. She also argues that the agreement she reached with the Taylors was that she would rent their apartment if she obtained Section 8 approval, and that the Taylors failed to give her an unsigned lease with the necessary dates for Section 8 approval. Thus, the condition the Taylors and Seals agreed on for Seals to rent the apartment was not met, and therefore there was no oral lease for the apartment, either. Finally, Seals argues that she never moved into the apartment and only had the keys for one week, and is therefore not liable for a full month's rent.

¶6 In our review of the trial court's decision, we must determine whether the trial court erred in finding that Seals and the Taylors entered into a valid lease for the month of August 2005. *See Arnold v. Robbins*, 209 Wis. 2d 428, 432, 563 N.W.2d 178 (Ct. App.1997) (“[W]hether established facts satisfy a

³ The Taylors only seek August rent in this action.

legal standard ... is a question of law which this court reviews *de novo*.”). We will accept the trial court’s findings of fact unless they are clearly erroneous. *Wynhoff v. Vogt*, 2000 WI App 57, ¶13, 233 Wis. 2d 673, 608 N.W.2d 400. We defer to the trial court’s credibility determinations. WIS. STAT. § 805.17(2).

¶7 We begin with the law that applies to this situation. The trial court found that Seals and the Taylors entered into an oral lease for the months of August and September 2005. We agree that an oral lease for two months is a valid legal arrangement. While landlords typically employ a written lease to establish a relationship with their tenants for an apartment, leases do not have to be written. Leases for less than one year may be formed orally. WIS. STAT. § 704.03(1). A lease is “an agreement, whether oral or written, for transfer of possession of real property ... for a definite period of time.” WIS. STAT. § 704.01(1).

¶8 However, when a lease is oral instead of written, there must be some evidence that the parties intended to enter a landlord-tenant relationship. *Town of Menominee v. Skubitz*, 53 Wis. 2d 430, 435-36, 192 N.W.2d 887 (1972). The evidence may include the conduct of the parties which shows their intention to enter into a landlord-tenant relationship. See *Schaller v. Marine Nat. Bank of Neenah*, 131 Wis. 2d 389, 398, 388 N.W.2d 645 (Ct. App. 1986).

¶9 The trial court determined that the conduct of the parties demonstrated the parties entered an oral lease for the months of August and September 2005. Seals argues that this finding was wrong because the only lease the parties agreed on was the written lease to begin in October 2005 under the Section 8 rent assistance program, and there was no lease for the month of August. Seals claims that she did not agree to lease the apartment in August, and that she paid the \$1500 so that the Taylors would hold the apartment until she was able to

have an inspector from Section 8 view the apartment to determine if it was eligible for Section 8 assistance. She claims that she did not move into the apartment in August or ever stay there overnight.

¶10 However, the court believed the testimony of Anita Taylor that Seals orally agreed to rent the apartment and gave the Taylors a \$1500 postdated check for August rent, not just to hold the apartment until Section 8 inspected the apartment. The court believed the Taylor's testimony that Seals came and went from the apartment for one or two weeks before informing the Taylors that she was not going to rent the apartment. The court found from Seals' testimony that the reason she did not go forward with obtaining Section 8 approval was that she decided she wanted a larger apartment, not that she did not get a lease with the right dates. These findings are supported by the testimony, and we therefore will not disturb them on appeal. We agree with the trial court that these facts establish that Seals and the Taylors entered into an oral lease for the month of August, and that Seals is therefore liable for the August rent. Accordingly, we affirm.

By the Court.—Judgment affirmed.

Not recommended for publication in the official reports. *See* WIS. STAT. RULE 809.23(1)(b)4.

