

IN THE COURT OF APPEALS OF IOWA

No. 6-627 / 95-2115

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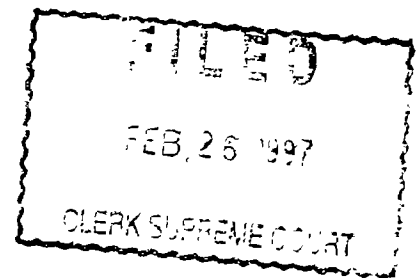
**E. M. HOWES COMPANY, INC.,**  
An Iowa Corporation,

Plaintiff-Appellee,

vs.

**KLINE BROTHERS COMPANY,**  
A Delaware Corporation,

Defendant-Appellant.



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Appeal from the Iowa District Court for Clinton County, David E. Schoenthaler, Judge.

Lessee appeals the district court's ruling awarding damages to lessor based on the breach of an oral one-year lease. **AFFIRMED.**

G. Wylie Pillers III of Pillers, Pillers & Zimmerman, P.C., Clinton, for appellant.

Jerry G. Van Scoy of Shaff, Van Scoy & Kross, Clinton, for appellee.

Considered by Sackett, P.J., Cady and Streit, JJ.

**PER CURIAM**

This is an appeal by lessee, Kline Brothers Company, which defended a breach of contract action by lessor, E.M. Howes Company, on statute of frauds grounds. The district court concluded the parties had entered into a valid one-year oral lease and awarded damages to Howes. We affirm on appeal by memorandum opinion pursuant to Iowa Supreme Court Rule 9.

Howes and Kline had a written agreement for Kline to lease Howes' commercial property in downtown Clinton, Iowa, until January 31, 1995. Kline vacated the property by December 31, 1994 and failed to pay the rent after December 1994. Howes commenced this action in the district court seeking a declaration that the parties had entered into an oral one-year lease and seeking recovery for unpaid rent.

At trial, over Kline's objections, Howes was allowed to present testimony that in negotiations initiated by the manager of the Kline store in Clinton, the parties reached an oral agreement in July 1994 to extend the lease for an additional one-year period from February 1, 1995 until January 31, 1996. Howes presented testimony that Kline sent a written document incorporating the oral agreement to Howes, which was signed and returned to Kline for appropriate signatures, but that Kline did not return a signed copy of the agreement to Howes.

In regard to Kline's statute of frauds objection, the court determined that Iowa Code section 622.32(3) did not prevent a party from proving a one-year oral lease of

real estate and that Howes was entitled to introduce evidence regarding that extension. See *Baie v. Nordstrom*, 238 Iowa 866, 869, 29 N.W.2d 211, 213 (1947).

The court also determined that Howes proved by clear and convincing evidence that there was a binding oral lease permitting it to recover the unpaid rent for that period.

Kline now appeals.

We review for correction of errors at law. Iowa R. App. P. 4. We agree with the district court's conclusion that the statute of frauds does not prohibit an oral lease for a term not exceeding one year. We find that Kline's attempts to distinguish *Baie* are without merit. The district court did not err in allowing Howes to present evidence to establish the existence of an oral agreement. Nor did the district court err in concluding Howes proved by clear and convincing evidence that the parties entered into an oral lease for the term covering February 1, 1995 to January 31, 1996.

We affirm the district court judgment.

**AFFIRMED.**