

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico

Filed 5/7/2026 11:24 AM

2 **LORRAINE HARMON,**

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-41944

5 **ADAM FORTENBERRY,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

8 **Matthew J. Wilson, District Court Judge**

9 Lorraine Harmon

10 Edgewood, NM

11 Pro Se Appellee

12 Robert Richards

13 Santa Fe, NM

14 for Appellant

15 **MEMORANDUM OPINION**

16 **MEDINA, Chief Judge.**

17 {1} Adam Fortenberry (Tenant) appeals from the judgment and order (Order)

18 determining that Lorraine Harmon (Landlord) was not obligated to provide

19 electricity, pursuant to NMSA 1978, Section 47-8-20(A)(4) (1999) of the Uniform

20 Owner-Resident Relations Act (UORRA). Tenant argues (1) Landlord had a duty to

21 provide electricity under UORRA, (2) Landlord retaliated against Tenant such that

22 she must pay a civil penalty under UORRA, and (3) Tenant was the prevailing party

1 below and is therefore entitled to attorney fees. For the reasons set forth below, we
2 reverse on the issue of Landlord's duty to provide electricity and affirm as to the
3 civil penalty and attorney fees.

4 **BACKGROUND**

5 {2} Approximately five years before the events giving rise to this proceeding,
6 Tenant, a friend of Landlord's ex-husband, moved onto Landlord's property in a
7 camper. Over the years, Landlord became frustrated during Tenant's residency for
8 several reasons, including because she purportedly received a notice of a zoning
9 violation due to the accumulation of Tenant's belongings on her property. On June
10 28, 2023, Landlord posted a notice to terminate rental agreement on Tenant's
11 camper. Approximately two weeks earlier, in the middle of June, Landlord cut off
12 Tenant's electricity by turning off the breakers on her property that provided
13 electricity to Tenant. On July 15, 2023, after using his own generator for electricity
14 in the interim, Tenant vacated the premises due to the lack of electricity.

15 {3} On August 1, 2023, Landlord filed a petition by owner for restitution in the
16 magistrate court for damage to the premises, repair of a fence, and the return of
17 various tools by Tenant. On August 16, 2023, the magistrate court filed a judgment
18 for restitution, awarding costs to Landlord in the amount of \$117 and requiring
19 Tenant to post \$1,500 as an appeal bond to stay the eviction. On August 29, 2023,

1 Tenant filed a notice of appeal to the district court, as well as a counterclaim related
2 to the shutoff of electricity.

3 {4} During a January 3, 2024 evidentiary hearing, Landlord appeared as a self-
4 represented litigant. The proceeding addressed Landlord’s obligations to Tenant
5 under UORRA, and Landlord and Tenant both testified. Related to this appeal,
6 Landlord testified that Tenant moved his camper onto the property years before. She
7 testified that there was no written rental agreement, but Tenant would mow the lawn
8 and do other tasks benefitting the property in exchange for his stay.

9 {5} Landlord further testified that Tenant had connected an electric extension cord
10 to an exterior building on the property to get electricity to his residence and that she
11 turned off the breakers to cut off Tenant’s utilities sometime in June. Landlord
12 testified Tenant used a generator for electricity in June. Consistent with Landlord’s
13 representation of the timeline, Tenant testified the utilities were cut off June 16,
14 2023. Tenant testified that he moved out July 15, 2023, because he no longer had
15 utilities. He estimated that the services he provided on the property were valued at
16 \$500 a month. The hearing concluded with the district court asking Landlord about
17 scheduling time for Tenant to remove his belongings from her property. Landlord
18 reported, “I just want him to get his stuff off my property. Everything, I don’t want
19 him leaving anything.”

1 {6} The district court denied Landlord’s claim for damages, her writ of restitution,
2 and Tenant’s claim for two months’ rent due to Landlord disabling Tenant’s access
3 to electricity. The district court also denied Tenant’s request for attorney fees,
4 making “each party . . . responsible for their own attorney fees and costs.”

5 {7} This appeal followed.

6 **DISCUSSION**

7 **I. Landlord Had a Duty to Provide Electricity to Tenant Until the End of**
8 **July 2023**

9 {8} Tenant highlights that UORRA requires an owner “to maintain in good and
10 safe working order and condition electrical . . . facilities . . . if any, supplied or
11 required to be supplied by [them].” Section 47-8-20(A)(4). Responding in part to the
12 language of the Order, Tenant argues that the fact that he provided his own electricity
13 to the camper in the past does not allow Landlord to avoid her duty to provide
14 electricity. Landlord asserts that she was never Tenant’s landlord, and the parties
15 never had an agreement that she would provide electricity.

16 {9} Our Court reviews the interpretation of UORRA de novo. *See T.W.I.W., Inc.*
17 *v. Rhudy*, 1981-NMSC-062, ¶¶ 4-15, 96 N.M. 354, 630 P.2d 753 (conducting a
18 statutory interpretation to determine whether an owner is required to provide heat to
19 a resident under UORRA). Pertinent to this appeal, Section 47-8-20(A)(4) requires
20 an owner to “maintain in good and safe working order and condition electrical,
21 plumbing, sanitary, heating, ventilating, air conditioning and other facilities and

1 appliances, including elevators, if any, supplied or required to be supplied by
2 [them.]”

3 {10} Landlord testified that her now ex-husband gave Tenant permission to move
4 onto her property while his home was in foreclosure. Given the nature of his arrival
5 and Landlord’s belief that Tenant would not stay long, she did not have him sign a
6 lease, but she acknowledged that Tenant would do things around the home in
7 exchange for his stay. This informal arrangement is sufficient to constitute an
8 agreement to occupy a site on owner’s land. UORRA therefore applies to this
9 arrangement between an owner and a resident. *See* § NMSA 1978, 47-8-3(M), (R),
10 (Q) (1999, amended 2025) (defining “owner,” “resident,” and “rental agreement”).

11 Landlord also testified that she was aware Tenant’s camper had accessed electricity
12 by way of an extension cord, because sometime before her ex-husband left in 2020,
13 Landlord noticed that her electrical bill was higher, investigated, and found the
14 buried extension cord running from an outbuilding to the camper. The district court
15 determined “[the requirement to provide] electricity is not applicable because
16 [Tenant] provided his own electricity after [Landlord] turned off the electricity to
17 [Tenant’s] dwelling unit.” We disagree and explain.

18 {11} Because Landlord knew that Tenant was taking electricity and continued to
19 supply electricity for some time, the plain language of Section 47-8-20(A)(4)
20 obligated Landlord to maintain the supply of electricity in good working order

1 during the term of the tenancy. Even if no “rental agreement” included the electrical
2 connection, the parties’ ongoing behavior supports a conclusion that Landlord
3 knowingly supplied electricity. Therefore, Section 47-8-20(A)(4) applied to require
4 the electrical connection to be maintained by Landlord. No exemption applies here
5 to relieve Landlord of this obligation. *See Rhudy*, 1981-NMSC-062, ¶¶ 2, 12-15
6 (holding that even where there was an oral agreement to lease property, the owner
7 was nevertheless required “to provide reasonable heat unless [the owner] . . . could
8 show some specific law exempting them from the requirement” and that “[Section]
9 47-8-20(A)(2) through (6) remain as minimum standards if there is no applicable
10 [housing or building] code”). This obligation remains even in the absence of a
11 written lease between the parties. *See Rhudy*, 1981-NMSC-062, ¶ 2. Further, this
12 obligation remains even if a resident is able to provide their own electricity after an
13 owner cuts off access otherwise—as the record indicates occurred here—or if the
14 owner has simply supplied the electricity to the premises despite the lack of “formal
15 permission”—as the district court found. Because Tenant was residing on
16 Landlord’s property and exchanging services for his stay and Landlord knowingly
17 supplied electrical access for a period of years, Landlord was required to maintain
18 the supply of electricity to Tenant until the eviction was effective at the end of July
19 2023.

1 **II. Tenant May Not Recover a Civil Penalty Under NMSA 1978, Section**
2 **47-8-39 (1999)**

3 {12} Next, Tenant argues that Landlord effectively admitted that she violated
4 Section 47-8-39, prohibiting retaliation for the exercise of a tenant’s rights under
5 UORRA, by cutting off his electricity. As a result, Tenant contends that Landlord
6 owes him a civil penalty of two times the amount of the monthly rent, pursuant to
7 NMSA 1978, Section 47-8-48(B) (1995, amended 2025).

8 {13} Tenant advanced a claim under 47-8-39(A)(3). As stated above, we address
9 the interpretation of Section 47-8-39 de novo. *See Rhudy*, 1981-NMSC-062, ¶¶ 4-
10 15. Section 47-8-39 entitles a resident to certain remedies when a landlord retaliates
11 against a resident based on the resident taking one of seven actions listed in Section
12 47-8-39(A). Examples of the protected actions include: organizing or becoming a
13 member of a residents’ union, § 47-8-39(A)(2); making a fair housing complaint,
14 § 47-8-39(A)(4); or testifying on behalf of another resident, § 47-8-39(A)(6). As
15 relevant here, Section 47-8-39(A)(3) also prohibits an owner from retaliating against
16 a resident by decreasing services because a resident “acted in good faith to exercise
17 [their] rights under [UORRA], including when the resident makes a written request
18 or complaint to the owner to make repairs to comply with the owner’s obligations
19 under Section 47-8-20.” Section 47-8-39(A)(3).

20 {14} Tenant argues he is entitled to recovery under Section 47-8-39(A)(3) because
21 (1) “there is no allegation that [he] was not in compliance with a rental agreement or

1 otherwise in violation of any provision of the [UORRA]”; (2) Landlord retaliated
2 against him by cutting off his electricity; and (3) Landlord’s retaliation was in
3 response to the exercise of his right to continue residing on the property until he
4 received written notice to vacate under NMSA 1978, Section 47-8-13 (1995) and
5 NMSA 1978, Section 47-8-37 (1975)¹. In support, Tenant contends that *Casa*
6 *Blanca Mobile Home Park v. Hill*, 1998-NMCA-094, ¶ 10, 125 N.M. 465, 963 P.2d
7 542, demonstrates that Landlord’s “[r]eduction of services in retaliation for asserting
8 his right to remain on the property until given written notice to vacate the premises
9 is prima facie evidence of retaliation.” We disagree.

10 {15} The retaliation prohibited by Section 47-8-39 is retaliation for specific action
11 taken by a tenant. It is retaliation for making a complaint, organizing or joining a
12 union, acting in good faith to exercise UORRA rights—including complaining or
13 making a written request to the owner to comply with UORRA, prevailing in a
14 lawsuit, testifying on behalf of another resident, or abating rent. Tenant did none of
15 these things. Tenant simply stayed on the property. *Hill* does not provide support for
16 his claim that simply continuing to occupy the premises when a landlord violates a
17 provision of UORRA gives rise to a claim for retaliation. In *Hill*, the residents
18 brought a claim under Section 47-8-39(A)(3) asserting that the owners retaliated in

¹Section 47-8-13 defines what constitutes “service of notice” for the purposes of UORRA, and Section 47-8-37 sets forth the manner in which an owner or resident may terminate residency pursuant to UORRA.

1 response to the residents’ complaints about noisy neighbors. *Hill*, 1998-NMCA-094,
2 ¶¶ 4, 5. This Court considered whether the affirmative exercise of complaining about
3 noisy neighbors by the residents constitutes an exercise of a right set forth in the
4 provisions of UORRA. *Id.* ¶¶ 9-10. This Court determined that the right to quiet
5 enjoyment raised by the residents is not a right “*provided* under the UORRA” such
6 that it enabled the residents to recover under 47-8-39(A)(3). *Hill*, 1998-NMCA-094,
7 ¶¶ 10, 15. *Hill* does not support Tenant’s position here.

8 {16} The record here reveals no particular affirmative exercise of rights by Tenant
9 at all beyond continuing to reside on the property. Tenant argues that he exercised
10 the right to receive written notice to vacate the property, but Tenant did not establish
11 that Landlord turned off the electricity because Tenant exercised an UORRA right
12 to receive written notice. Recovery under Section 47-8-39(A)(3) requires more than
13 a mere showing that Tenant resided on the property and Landlord reduced services
14 by cutting off Tenant’s electricity. *See* NMSA 1978, § 47-8-27.1 (1995) (addressing
15 remedies for breach of Section 47-8-20). It requires that Tenant took one of the
16 affirmative actions listed in Section 47-8-39(A) to *exercise* his rights under UORRA
17 and that in response, Landlord retaliated against him for taking that action.
18 Accordingly, the record does not support granting a civil penalty on the basis
19 advanced by Tenant here.

1 **III. Neither Party Is Entitled to an Award of Attorney Fees**

2 {17} Finally, Tenant argues that he “is the prevailing party if Landlord does not
3 prevail on any part of her claim.” Tenant contends that, because the district court
4 denied Landlord’s claims for damages and restitution, the district court abused its
5 discretion in not awarding him attorney fees and costs.

6 {18} We review a district court’s determination as to an award of attorney fees for
7 abuse of discretion. *Guest v. Allstate Ins. Co.*, 2024-NMCA-022, ¶ 26, 542 P.3d 768.

8 In doing so, we consider “whether the district court’s decision was clearly against
9 the logic and effect of the facts and circumstances before the court. However, our
10 review of legal questions and whether the law has been correctly applied is de novo.”

11 *Id.* (text only) (citations omitted). UORRA’s Section 47-8-48(A) provides that “the
12 prevailing party shall be entitled to reasonable attorney[] fees and court costs to be
13 assessed by the court.” Here, the district court determined “[Tenant] and [Landlord]
14 did not prevail on any issue before the court and therefore each party will be
15 responsible for their own attorney fees and costs.”

16 {19} The prevailing party is “the party to a suit who successfully prosecutes the
17 action or successfully defends against it, prevailing on the main issue, even though
18 not necessarily to the extent of his original contention.” *Stodgell v. Weissman*, 2025-
19 NMCA-003, ¶ 15, 561 P.3d 1097 (internal quotation marks and citation omitted).

20 Here, Tenant successfully defended against the claims initially brought by Landlord.

1 *See Hedicke v. Gunville*, 2003-NMCA-032, ¶ 26, 133 N.M. 335, 62 P.3d 1217
2 (recognizing that a prevailing party includes a defendant who avoids an adverse
3 judgment). Further, Landlord successfully defended against Tenant’s cross-claim for
4 civil penalties. *See id.* As such, each party prevailed in defending against an adverse
5 judgment and failed to prevail on their respective claim. Accordingly, the district
6 court’s determination that neither party prevailed was not clearly against the logic
7 and effect of the facts and circumstances here. *See N.M. Right to Choose/NARAL v.*
8 *Johnson*, 1999-NMSC-028, ¶ 33, 127 N.M. 654, 986 P.2d 450 (concluding that
9 neither party prevailed because the trial court ruled in favor of each party on one
10 issue, and therefore neither party was entitled to an award of costs).

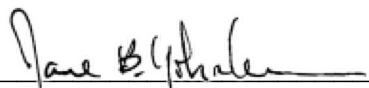
11 **CONCLUSION**

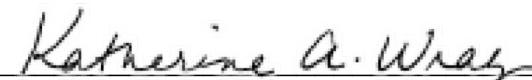
12 {20} Based on the foregoing, we reverse the Order insofar as it determined
13 Landlord had no duty to provide electricity under UORRA and affirm on all other
14 grounds.

15 {21} **IT IS SO ORDERED.**

16 
17 JACQUELINE R. MEDINA, Chief Judge

1 **WE CONCUR:**

2 
3 **JANE B. YOHALEM, Judge**

4 
5 **KATHERINE A. WRAY, Judge**