

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

ARLINE BURKS GANT,	:	
	:	
Plaintiff-Appellant,	:	No. 115416
	:	
v.	:	
	:	
JOSEPH BOLAN, SR., ET AL.,	:	
	:	
Defendants-Appellees.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED IN PART, REVERSED IN PART,
AND REMANDED
RELEASED AND JOURNALIZED: August 20, 2026

Civil Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-117946

Appearances:

Milton and Charlotte Kramer Law Clinic, Case Western
Reserve University School of Law, Andrew S. Pollis,
Supervising Attorney, and Loudon J. Keihl, Legal Intern,
for appellant.

Margaret E. Cooper, LLC, and Margaret E. Cooper, *for
appellees.*

LISA B. FORBES, P.J.:

{¶ 1} Plaintiff-appellant Arline Burks Gant (“Gant”) appeals from the trial court’s journal entry granting the defendants-appellees’ Civ.R. 12(B)(6) motion to

dismiss (“Motion to Dismiss”) her amended complaint (“Amended Complaint”) for failure to state a claim upon which relief can be granted. After a thorough review of the facts alleged and the law, we reverse the trial court’s judgment granting the motion to dismiss in part, affirm the trial court’s judgment in part, and remand for further proceedings consistent with this opinion.

I. Factual Background and Procedural History

A. Amended Complaint

{¶ 2} On May 20, 2025, Gant initiated this action, filing a 42-page complaint against Judith Bolan, Joseph Bolan Sr., Storage Solutions Inc. of Ohio (“Storage Solutions”), 69th Street Holding Group, and 69th Street Property Portfolio (collectively, the “appellees”), asserting claims arising out of her storage of property in a storage unit located at 2363 E. 69th Street, Cleveland, Ohio 44104.

{¶ 3} On May 27, 2025, Gant filed an Amended Complaint. The Amended Complaint is 13 pages in length. The first two pages are a description of her grievances resulting from nonpayment of storage fees. The third page continues with the discussion of grievances and contains references to exhibits, some of which are attached. The remaining pages include an itemization of Gant’s property in storage, photographs, excerpts of emails, and a document dated April 29, 2025, titled “Notice of Lien and Intent to Sell Personal Property” (the “Second Lien Notice”).

{¶ 4} In her Amended Complaint, Gant alleged the following facts. Gant placed her property in storage with Joseph Bolan Sr. and Judy Bolan (collectively,

the “Bolans”). She did not specify when she placed her property in storage. Gant acknowledged that she was “very delinquent in paying [her] storage fees,” admitting that her last payment was in November 2023. The Bolans told her that “because [she] had not paid [the fees] they used [her storage space] to store their cars.”

{¶ 5} In February 2025, after 14 months of nonpayment, Gant asked the Bolans what she owed them and “we began the process of getting out.” Gant alleged that she and Judy Bolan arranged to meet, that she agreed to pay \$10,000, and that she would move the items out of the storage unit the “following day.” According to Gant, this meeting did not occur.

{¶ 6} Gant described several unsuccessful subsequent attempts to pay the money owed. Gant “ask[ed] to pay a different way, to actually meet at the bank,” and also “offered to meet at storage and go with them together.” However, the Bolans refused to meet. When Gant attempted to pay by going on the storage site, one of the Bolans’ employees was “flailing his arms and yelling” at her in a “very threatening manner,” and “told [her] the Bolans had just called him and told him to tell [her] to go away.” Gant next offered to put money in an escrow account until she could confirm that her belongings were still in the storage unit. Gant claimed that the Bolans “refus[ed] to be paid face to face on site and only excepting [sic] wire transfers (text) sent to (?) where I wasn’t sure!”

{¶ 7} Gant alleged she was given a new date of April 17, 2025, to pay \$7,500, “at which point [she] would be allowed to enter the room and inspect [her] things,

[and] the remaining \$2,500 (total \$10,000) would be due in 2 weeks at which point [she] would be able to move.”

{¶ 8} Gant explained that her only request to the Bolans was that she receive photos of her things prior to making payment. Gant received photos of her items but had “issues” with the appearance of her property, including a missing piano and property that appeared out of place. Gant informed the Bolans of her concerns but still agreed to pay the \$10,000. However, the Bolans again changed the “payoff arrangement[,] this time moving the payment of the initial \$7,500 to be sent by wire the following Monday the 21[st of April].”

{¶ 9} Gant stated that she contacted the police on April 18, 2025. The police communicated with the Bolans, who informed the officer that Gant was to make payment to their attorney, Margaret Cooper (“Cooper”), on April 21, 2025. However, when Gant spoke with Cooper on April 18, 2025, Cooper told her that she now had to pay \$11,300. Gant contacted the police again on April 18, 2025, and this time also filed a police report.

{¶ 10} On April 22, 2025, Gant “received [l]ien paperwork from [Cooper]” who was counsel for Storage Solutions (the “First Lien Notice”). Gant alleged that the lien paperwork is not signed by a judge and “list[s] a fake phone number as the contact . . . for payment[.]” Gant contended that, as a result, she “had no way of following the lien guidelines on how to remedy this lien.” Gant received the Second Lien Notice dated April 29, 2025, which she attached to the Amended Complaint. The Second Lien Notice is addressed to “Ms. Arline Gant” and “Ms. Dakota Gant[,]”

c/o Arline Gant,” and states, in pertinent part, that it was sent on behalf of Storage Solutions through Cooper, its lawyer, and that

[t]his letter serves as formal notice that you are in default under the terms of your rental agreement with Storage Solutions Inc. of Ohio for the storage unit located at:

Unit #: IRI/ Tool Room

Facility Address: 2363 E 69th Street

{¶ 11} The Second Lien Notice explains that Gant owes a total of \$11,249.40 and that her date of last payment was November 2023, and that pursuant to R.C. 5322.03, the property stored in the above-listed unit is now subject to a lien in favor of Storage Solutions. The letter describes generally the items stored in the unit as furniture, art, instruments, boxes, household goods, and tools. The letter also states that if payment is not received within ten days, the stored property “may be sold at public or private sale, or otherwise disposed of, to satisfy the lien.” However, the notice provides a specific deadline for payment of May 13, 2025, which is 14 days after the date of the letter. The Second Lien Notice further specifies that to avoid sale or disposal, Gant must also contact the listed number to make arrangements no later than May 13, 2025. The sentence “[p]ay the total amount due of \$11,249.40” is the only sentence that appears in larger, more conspicuous font. Further, the letter states that

[t]his notice has been sent via verified email, as permitted under Ohio Revised Code § 5322.03. Notice was sent previously via certified mail to 31400 Jackson, Moreland Hills, OH 44022, but was returned as you have not provided us with a valid forwarding address per the terms of the signed rental agreement. This notice was originally sent 4/22/2025 and has been updated in this notice with a different phone number.

{¶ 12} Gant alleged she is “being scammed,” adding that Cooper and the Bolans sent her “scandalous text [sic] accusing [her] of lying, racial undertones, lie after lie” Cooper refused to schedule an appointment in her office and told Gant that her “only other option is to send the money to [Cooper,] and after she receives and cashes it will [sic] she only than [sic] send [Gant] a receipt.”

{¶ 13} Gant’s Amended Complaint concludes that she does not owe the Bolans money, noting that she has attempted to pay on numerous occasions, adding that she now has “attorney fees and so much more.” She stated that the Bolans owe her “\$65,000 [sic] the cost of the art, grand piano and so much more.”

B. Motion to Dismiss

{¶ 14} Appellees’ Civ.R. 12(B)(6) Motion to Dismiss argued that the Amended Complaint failed to state a claim upon which relief can be granted and asked the court to dismiss all claims with prejudice.

{¶ 15} In their Motion to Dismiss, Appellees asserted that the Amended Complaint “stems from the enforcement of a self-storage lien arising under a commercial lease executed on May 15, 2021.” Appellees argued that Gant admitted to failing to pay rent beginning in November 2023, and that they “properly invoked [their] statutory lien rights under the Ohio Self-Service Storage Facility Act, R.C. Ch. 5322, including issuance of statutory notices, an opportunity to cure, and a lawful public auction.”

{¶ 16} Appellees asserted that Gant’s Amended Complaint did not set forth cognizable legal claims and “consists of a single paragraph of disjointed grievances,

lacking articulated claims, legal theories, or factual support.” Although Appellees argue that Gant failed to set forth cognizable claims, they nevertheless “decipher what claims might possibly be intended and [] respond as if those claims had been properly pled.” Gant did not appear to disagree with the claims suggested by the Appellees but disputed their entitlement to dismissal.

{¶ 17} The court granted Appellees’ Civ.R. 12(B)(6) motion to dismiss, finding that “even construing the complaint and amended complaint liberally, plaintiff’s complaint and amended complaint fail to cogently state a claim for relief or allege facts sufficient to state any cognizable legal action upon which relief can be granted.”

{¶ 18} It is from this order that Gant appeals, raising one assignment of error for our review: “The trial court erred by dismissing Gant’s amended complaint under Civ.R. 12 (B)(6).”

II. Law and Analysis

A. Pro Se Litigants

{¶ 19} Initially, we note that Gant acted pro se in the trial court. This court has previously recognized

a pro se litigant may face certain difficulties when choosing to represent oneself. Although a pro se litigant may be afforded reasonable latitude, there are limits to a court’s leniency. *Henderson v. Henderson*, 11th Dist. Geauga No. 2012-G-3118, 2013-Ohio-2820, ¶ 22. Pro se litigants are presumed to have knowledge of the law and legal procedures and are held to the same standard as litigants who are represented by counsel. *In re Application of Black Fork Wind Energy, L.L.C.*, 138 Ohio St.3d 43, 2013-Ohio-5478, 3 N.E.3d 173, ¶ 22.

Saeed v. Greater Cleveland Regional Transit Auth., 2017-Ohio-935, ¶ 7 (8th Dist.).

{¶ 20} Nevertheless, “courts afford pro se litigants some leeway in construing their filings” *Rasheed v. Robinson*, 2025-Ohio-3284, ¶ 21 (8th Dist.), quoting *Djurin v. Ginley*, 2023-Ohio-1041, ¶ 13 (8th Dist.). “But that leeway manifests in limited ways including attempting to address a pro se litigant’s arguments on the merits when they are indecipherable” *Id.* at ¶ 21, quoting *State ex rel. Neil v. French*, 2018-Ohio-2692, ¶ 11.

B. Standard of Review — Motion to Dismiss

{¶ 21} Civ.R. 8(A) requires a complaint to include “a short and plain statement of the claim showing that the party is entitled to relief” Further, “[e]ach averment of a pleading shall be simple, concise, and direct.” Civ.R. 8(E)(1). Civ.R. 8(A) must be read in conjunction with the remaining sections of Civ.R. 8, including Civ.R. 8(F) that provides “[a]ll pleadings shall be so construed as to do substantial justice.”

{¶ 22} Civ.R. 8 is a liberal pleading rule. *Bowers Constr. Co., Inc. v. Chuparkoff*, 2010-Ohio-419, ¶ 5 (9th Dist.). Under the rule’s liberal pleading requirements, a plaintiff must merely set forth operative facts in her complaint “which give fair notice of the action” *Id.*, quoting *Truax v. Arora*, 1993 Ohio App. LEXIS 2059, *5 (9th Dist. Apr. 7, 1993). “Any legal theory applicable to the stated facts will support a recovery.” *Truax at id.*; *Vagas v. Hudson*, 2009-Ohio-6794, ¶ 13 (9th Dist.) (A complaint will survive a motion to dismiss as long as it “sets forth adequate facts demonstrating a claim for relief.”). If a complaint does not

comply with Civ.R. 8(A), it may be dismissed pursuant to Civ.R. 12(B)(6). *See Doe v. Greenville City Schools*, 2022-Ohio-4618, ¶ 7-8.

{¶ 23} A Civ.R. 12(B)(6) motion to dismiss for failure to state a claim tests the sufficiency of a complaint. *Assn. for Defense of Washington Local School Dist. v. Kiger*, 42 Ohio St.3d 116 (1989). The Civ.R. 12(B)(6) dismissal of a complaint for failure to state a claim upon which relief can be granted is appropriate if, after presuming the truth of all factual allegations of the complaint and making all reasonable inferences in a nonmoving party's favor, it appears beyond doubt that the nonmoving party could prove no set of facts entitling the moving party to the requested relief. *Rosen v. Celebrezze*, 2008-Ohio-853, ¶ 13. In considering a Civ.R. 12(B)(6) motion to dismiss, the court “is limited to the four corners of the complaint along with any documents properly attached to, or incorporated within, the complaint.” *Figgie v. Figgie*, 2021-Ohio-1812, ¶ 5 (8th Dist.), quoting *Lakeside Produce Distrib. v. Wirtz*, 2021-Ohio-505, ¶ 11 (8th Dist.).

{¶ 24} On appeal, our review of the trial court's decision regarding a Civ.R. 12(B)(6) motion is de novo. *Perrysburg Twp. v. Rossford*, 2004-Ohio-4362, ¶ 5. “De novo review means that this court uses the same standard that the trial court should have used, and we examine the evidence to determine if as a matter of law no genuine issues exist for trial.” *Brewer v. Cleveland City School Bd. of Edn.*, 122 Ohio App.3d 378, 383 (8th Dist. 1997), citing *Dupler v. Mansfield Journal Co.*, 64 Ohio St.2d 116, 119-120 (1980). In other words, we review the trial court's decision without according the trial court any deference. *6750 BMS, L.L.C. v.*

Drentlau, 2016-Ohio-1385, ¶ 25 (8th Dist.), citing *Brown v. Cty. Commrs.*, 87 Ohio App.3d 704, 711 (4th Dist. 1993).

{¶ 25} We note that documents properly incorporated into the complaint may be considered in conducting a Civ.R. 12(B)(6) analysis. *Reynolds v. Kamm*, 2023-Ohio-3797, ¶ 15 (8th Dist.). “Any written instrument attached to a pleading pursuant to Civ.R. 10(C) & (D) is part thereof for pleading purposes.” *Keenan v. Adecco Emp. Servs.*, 2006-Ohio-3633, ¶ 8 (3d Dist.). However, “not every document attached to a pleading constitutes a . . . written instrument” for purposes of considering whether the document is deemed to be incorporated into the complaint. *Reynolds* at ¶ 15, quoting *State ex rel. Leneghan v. Husted*, 2018-Ohio-3361, ¶ 17. “A written instrument ‘has primarily been interpreted to include documents that evidence the parties’ rights and obligations, such as negotiable instruments, “insurance policies, leases, deeds, promissory notes, and contracts.”” *Id.*, quoting *id.*, quoting *Inskeep v. Burton*, 2008-Ohio-1982, ¶ 17 (2d Dist.).

{¶ 26} In assessing whether the Amended Complaint states a claim upon which relief may be granted, we limit our analysis to the description of events and allegations on pages 1-3 and the Lien Notice on pages 11-12. While the Lien Notice addresses the parties’ rights and obligations pursuant to R.C. 5322.03, the remaining pages, which include numerous emails and photographs, do not constitute written instruments. *See Berick v. Engwiller Props., Inc.*, 2025-Ohio-1989, ¶ 14, 15 (5th Dist.) (Civ.R. 10(D) “does not provide for the attachment and incorporation of unauthenticated photographs to the pleadings.”); *see also State ex*

rel. Maynard v. Medina Courthouse Steering Comm., 2020-Ohio-5562, ¶ 15 (9th Dist.) (Email was not a “written instrument” under Civ.R. 10(C).); *Davis v. Widman*, 2009-Ohio-5430, ¶ 18 (3d Dist.) (holding that photographs are neither accounts nor written instruments under Civ.R. 10(C)-(D)).

C. Gant’s Claims

{¶ 27} On appeal, Gant argues that although she did not name specific causes of action in her Amended Complaint, she “detailed facts and attached several documents to support her claims” for breach of contract, conversion, and statutory violations of R.C. Ch. 5322.

1. Conversion and R.C. 5322.03

{¶ 28} Gant argues on appeal that the Amended Complaint has sufficiently pled facts to support a claim for conversion, as well as a claim under R.C. 5322.03. We review these arguments together because they are interrelated.

{¶ 29} “Conversion is the ““wrongful control or exercise of dominion over the property belonging to another inconsistent with or in denial of the rights of the owner.”” *Figgie*, 2021-Ohio-1812, at ¶ 11 (8th Dist.), quoting *Poston ex rel. Poston v. Shelby-Love*, 2017-Ohio-6980, ¶ 18 (8th Dist.), quoting *Beavers v. PNC Bank, N.A.*, 2013-Ohio-5318, ¶ 29 (8th Dist.). The elements of a conversion are “(1) plaintiff’s ownership or right to possession of the property at the time of conversion; (2) defendant’s conversion by a wrongful act or disposition of plaintiff’s property rights; and (3) damages.” *Haul Transport of Va., Inc. v. Morgan*, 1995 Ohio App.

LEXIS 2240, *9 (June 2, 1995), quoting 18 Am.Jur.2d, Conversion, § 2, at 146-147 (1985).

{¶ 30} R.C. 5322.02(A) states that

[t]he owner of a self-service storage facility has a lien against the occupant on the personal property stored pursuant to a rental agreement in any storage space at the self-service storage facility, or on the proceeds of the personal property subject to the defaulting occupant's rental agreement in the owner's possession, for rent labor, late fees, or other charges in relation to the personal property that are specified in the rental agreement

R.C. 5322.02(A).

{¶ 31} “R.C. 5322.03 provides that the owner's lien created by R.C. 5322.02(A) for a claim that has become due may be enforced pursuant to the terms stated in R.C. 5322.03 regarding notification, advertisement, and sale procedures.” *Cirotto v. Am. Self Storage of Pickerington*, 2025-Ohio-1670, ¶ 46 (10th Dist.). In other words, if the owner of a self-storage facility does not follow the procedures set forth in R.C. 5322.03, it cannot enforce its owner's lien against the occupant of the unit. *See Drentlau*, 2016-Ohio-1385, at ¶ 37 (8th Dist.).

{¶ 32} The lien enforcement procedures under R.C. 5322.03 require that notice is given to all persons who claim an interest in the property. Relevant for our purposes, the notice must include:

- (1) The name and last known address of the occupant who rented the storage space in which the personal property was stored;
- (2) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;
- (3) A brief and general description of the personal property subject to the lien . . .

(4) A notice of denial of access to the personal property, if denial of access is permitted under the terms of the rental agreement, which notice provides the name, street address, and telephone number of the person whom the person notified may contact to pay the claim and to either obtain the personal property or enter into a rental agreement for the storage of the personal property;

(5) A demand for payment within a specified time not less than ten days after delivery of the notice;

(6) A conspicuous statement that unless the claim is paid within that time the personal property will be advertised for sale and will be sold by auction and that, if no person purchases the personal property at the auction, the personal property may be sold at a private sale or destroyed; [and]

(7) The street or internet address of the place at which the sale will be held, if the sale will be held at a place other than the self-service storage facility in which the personal property was stored.

R.C. 5322.03(C).

{¶ 33} On appeal, Gant correctly asserts that R.C. 5322.03 delineates a process whereby an owner of a storage facility may enforce a lien on the property stored therein pursuant to a rental agreement and that R.C. 5322.03(O)(2) establishes that “an owner who fails to comply with the R.C. 5322.03 sale process requirements is liable for damages and, when the violation is willful, [is] liable for conversion.”

{¶ 34} Gant admitted, in her Amended Complaint, that after she became delinquent in her rent for the storage unit in November 2023, the Bolans “agreed to give me a chance each time I could not follow through. They also said because I had not paid they used it to store their cars.” Beginning in February 2025, when Gant attempted to satisfy her debt to the Bolans, the Bolans refused to accept her payment

and precluded access to her property. On appeal, Gant argues that she “relied on a renegotiation of the lease terms, but the Bolans repeatedly dishonored that renegotiation, preventing her from making rental payment.”

{¶ 35} Moreover, Gant argues on appeal that in late April 2025 the Bolans’ attorney sent Gant the Second Lien Notice, which “invoked R.C. 5322.03 to support the initiation of a lien on Ms. Gant’s property in favor of the Defendants.” However, she argues that the Appellees did not follow the procedure under R.C. 5322.03 to properly enforce a lien on her property, identifying the following defects in the Second Lien Notice: (1) lack of itemized statement showing the sum due, (2) lack of conspicuous auction warning, and (3) failure to include a denial of access advisement.

{¶ 36} Appellees respond that the claim for conversion fails as a matter of law because “[c]onversion requires wrongful dominion,” which did not occur here because both the lease and Ohio law authorize denial of access and disposition of stored property upon default of payment. Appellees also argue that Gant never contended in her Amended Complaint that R.C. 5322.03 was violated, but that she merely “labels the lien “fraudulent” and seeks damages, but . . . does not identify a specific contractual provision that . . . [was] breached,” and does not “articulate statutory damages elements.”

{¶ 37} We disagree with the Appellees’ argument that Gant did not allege facts which, if proven true, would establish claims for conversion or violation of R.C. 5322.03. While R.C. 5322.03 does provide a mechanism whereby an owner of

a self-storage facility may enforce a lien on stored property, ultimately resulting in the auctioning or destruction of property, the statute provides specific requirements that must be met to legally effectuate the disposition of property. This includes certain notices that Gant alleges were not provided to her. For example, Gant asserted in the Amended Complaint that the First Lien Notice did not include a working telephone number of the person who may be contacted to pay the claim, and as a result she “had no way of following the lien guidelines on how to remedy this lien.” Additionally, a review of the Second Lien Notice sent by counsel for Storage Solutions confirms that it did not include the statutorily required (1) itemized statement showing the sum due, (2) conspicuous auction warning, and (3) denial of access advisement.¹

{¶ 38} Moreover, not only did Gant allege she was improperly denied access to her property after the issuance of the lien notices beginning in April 2025, Gant’s Amended Complaint asserted that she was denied access to her property beginning in February 2025, when a storage facility employee yelled at her told her to “go away.” Gant’s Amended Complaint alleged that a denial of access was ongoing while she made numerous unsuccessful attempts to pay her debt.

¹ Regarding denial of access, we simply note that the Second Lien Notice does not include such an advisement. We express no opinion as to whether denial of access is permitted under the terms of the rental agreement so as to require such an advisement. *See* R.C. 5322.03(C)(4). Moreover, we disagree with Appellees’ assertion that R.C. Ch. 5322 authorizes denial of access and disposition of stored property upon default of payment. As discussed, R.C. 5322.03 imposes specific requirements on the party seeking to deny access and dispose of stored property.

{¶ 39} Therefore, presuming the truth of all factual allegations in the Amended Complaint and making all reasonable inferences in Gant’s favor, we find that the trial court erred in dismissing Gant’s claims for conversion and violations of R.C. 5322.03 under Civ.R. 12(B)(6).

2. Breach of Contract

{¶ 40} Gant also argues that her Amended Complaint has sufficiently pled a breach-of-contract claim. We agree.

{¶ 41} “A contract is generally defined as a promise, or a set of promises, actionable upon breach. Essential elements of a contract include an offer, acceptance, contractual capacity, consideration (the bargained for legal benefit and/or detriment), a manifestation of mutual assent and legality of object and of consideration.” *Kostelnik v. Helper*, 2002-Ohio-2985, ¶ 16, quoting *Perlmutter Printing Co. v. Strome, Inc.*, 436 F.Supp. 409, 414 (N.D. Ohio 1976). “A meeting of the minds as to the essential terms of the contract is a requirement to enforcing the contract.” *Id.* at ¶ 16, citing *Episcopal Retirement Homes, Inc. v. Ohio Dept. of Indus. Relations*, 61 Ohio St. 3d 366, 369 (1991).

{¶ 42} An oral agreement may be enforceable “if there is sufficient particularity to form a binding contract.” *Kostelnik* at ¶ 15, citing *Spercel v. Sterling Indus., Inc.*, 31 Ohio St.2d 36, 39 (1972). The terms of an oral contract can be determined from the “words, deeds, acts, and silence of the parties.” *Kostelnik* at ¶ 15, quoting *Rutledge v. Hoffman*, 81 Ohio App. 85, 86-87 (12th Dist. 1947).

{¶ 43} “A contract may be altered . . . by a subsequent modification to its terms.” *Trader v. People Working Cooperatively*, 104 Ohio App.3d 690,694 (1st Dist. 1994). For a contract modification to be binding, “it must be supported by consideration.” *Id.* at 694-695.

{¶ 44} Finally, “[t]o prevail on a claim for breach of contract, a plaintiff must prove: (1) the existence of a contract; (2) performance by the plaintiff; (3) breach by the defendant and (4) resulting damages to the plaintiff.” *Gurary v. John Carroll Univ.*, 2024-Ohio-3114, ¶ 45 (8th Dist.). However, “if a contract is comprised of mutual dependent promises . . . then a party is not in default until the other party tenders performance.”² *Carter v. New Buckeye Redevelopment Corp.*, 1998 Ohio App. LEXIS 1414, *9 (8th Dist. Apr. 2, 1998), citing *Young v. Brookshire*, 101 Ohio App.3d 458, 461 (12th Dist. 1995).

{¶ 45} As a threshold matter, we note that Appellees repeatedly reference a storage lease agreement in their appellee brief. However, the lease was neither described, nor attached to the Amended Complaint, and is thus not contained within the “four corners of the complaint.”³ We, therefore, cannot consider it for purposes of our review of the Civ.R. 12(B)(6) motion to dismiss.

² The word “tender” means a “readiness and willingness to perform in the case of the concurrent performance by the other party, with present ability to do so, and notice to the other party of such readiness.” *Raudabaugh v. Hart*, 61 Ohio St. 73, 88 (1899), syllabus.

³ Pursuant to Civ.R. 10(D), to the extent Gant alleged a breach of the original storage agreement, the agreement should have been attached to the Amended Complaint. It was not. However, the remedy for such a failure is not a dismissal under

{¶ 46} Gant argues on appeal that she delayed payment on the storage lease in reliance on a renegotiation of the original agreement. When she attempted to satisfy her debt to the Bolans, the Bolans prevented her from making payment and precluded access to her property.

{¶ 47} Gant contends on appeal that, as set forth in the Amended Complaint, the “Bolans had an agreement with her to pay the back rent she accrued.” Although she “attempted to honor the agreement by paying multiple times . . . the Bolans continued to alter the amount, timing, and method of payment.” Thus, the Bolans breached their contract with Gant by failing to “perform their side of the agreement.”

{¶ 48} In response, Appellees argue that Gant admitted to being “very delinquent” in paying storage fees and “allow[ing] an extended period of nonpayment to accrue,” and that the Amended Complaint merely describes a “series of ongoing payment negotiations that never ripened into a binding obligation.” Therefore, according to the Appellees, Gant neither pleads an enforceable modification nor a wholly new agreement. We disagree.

{¶ 49} Gant admitted in the Amended Complaint that she was delinquent in paying storage fees for the property that she was storing with the Bolans. This implies that an agreement existed between Gant and the Bolans for storage of her property. Gant also asserted, in the Amended Complaint, that the Bolans modified that original agreement when they “agreed to give [Gant] a chance each time [she]

Civ.R. 12(B)(6), but a motion to a more definite statement under Civ.R. 12(E). *See Spit Shine A Detailer, L.L.C. v. Rick Case Hyundai*, 2017-Ohio-888, ¶ 11-12 (8th Dist.).

could not follow through” on payment, further claiming that because “[she] had not paid [the Bolans they] used it to store their cars.” The Amended Complaint further alleged that after more than a year of nonpayment, the Bolans agreed to allow Gant to “pay \$10,000 and move out the following day,” but later repeatedly changed the method of payment and amount due, eventually demanding payment of \$11,249.40. The Amended Complaint described a series of unsuccessful attempts by Gant to pay and a continued denial of access to her property. Gant claimed a \$65,000 loss for the items in the storage unit.

{¶ 50} Additionally, we note that Gant’s failure to perform her end of the modified agreement (i.e., to pay the amount owed) is not fatal to her breach-of-contract claim. Gant set forth allegations in her Amended Complaint that, if true, establish that Gant was ready and willing to perform, had the “present ability” to perform, and notified the Bolans of “such readiness.” *See Raudabaugh*, 61 Ohio St. at 88. The Amended Complaint lays out several attempts by Gant, beginning in February 2025, to pay the money owed on the storage unit in accord with the instructions provided by defendants. Despite Gant’s attempts to perform on the modified agreement, she alleged she was prevented from doing so by the Bolans.

{¶ 51} Taking all of Gant’s factual assertions as true, she has sufficiently pled a breach of contract. We, therefore, find that the court erred in granting the motion to dismiss Gant’s breach-of-contract claim.

D. The Defendants

{¶ 52} Finally, we address defendants the 69th Street Holding Group and the 69th Street Property Portfolio. Gant has alleged no facts whatsoever against either of these entities. Because the Amended Complaint does not identify any conduct on the part of the 69th Street Holding Group or the 69th Street Property Portfolio, we affirm the trial court's decision finding Gant failed to state a claim against either entity. The assignment of error challenging the trial court's dismissal of the case, as against appellants 69th Street Holding Group and 69th Street Property Portfolio, is overruled.

{¶ 53} For the reasons set forth above, Gant's assignment of error challenging the trial court's dismissal of the Amended Complaint with respect to the claims of conversion, violation of R.C. Ch. 5322 and breach of contract as against appellants Judith Bolan, Joseph Bolan Sr., and Storage Solutions Inc. of Ohio is sustained.

{¶ 54} Judgment affirmed in part and reversed in part. Case remanded to the trial court for further proceedings consistent with this opinion.

It is ordered that appellees and appellant share costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27
of the Rules of Appellate Procedure.

LISA B. FORBES, PRESIDING JUDGE

MICHAEL JOHN RYAN, J., and
ANITA LASTER MAYS, J., CONCUR