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Case No. 25-3889

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
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KELLY L. STEPHENS, Clerk

TRUSTEES MAIN/270, LLC,

Plaintiff-Appellee,

v.

APPLIANCESMART, INC.; JANONE, INC., fka Appliance Recycling Centers of America, Inc.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

O P I N I O N

Before: MOORE, CLAY, and NALBANDIAN, Circuit Judges.

NALBANDIAN, Circuit Judge. ApplianceSmart, Inc., ran a store in Trustees Main/270, LLC's (Trustees Main) shopping center until 2022. JanOne, Inc. (ApplianceSmart's former parent company), guaranteed the lease. ApplianceSmart defaulted three times. Everyone came together and resolved the first two breaches amicably. But the third prompted Trustees Main to repossess the property, sue for damages, and search for a new tenant. It found a new tenant, but only after rejecting tenants proposed by JanOne (and a related entity, Live Ventures, Inc.) that would've allegedly started paying rent sooner than Trustees Main's selected replacement. On that basis, ApplianceSmart argues that Trustees Main didn't reasonably mitigate its damages, warranting reversal of the district court's judgment in Trustees Main's favor. But because Ohio law doesn't require lessors to mitigate damages by continuing to deal with demonstrably unreliable parties, we affirm.

I.

This dispute is over a commercial lease. The only appellate question is whether the trial court erred in finding that the lessor—the non-breaching party here—sufficiently mitigated its damages. The court held a bench trial on that issue, where it heard the facts as told below.

Trustees Main owns a shopping center in Columbus, Ohio. That shopping center comprises multiple retail spaces, including a "big box" space—a "larger" retail space suitable only for an "[e]xtremely limited" pool of "national retailers." R.92, Trial Tr., PageID 519, 540–41.

ApplianceSmart, Inc., ran a store of the same name in Trustees Main's big-box space from 2008 until it came to a rocky end in 2022. Toward the end of its tenure, ApplianceSmart repeatedly defaulted on the lease, ultimately leading Trustees Main to concurrently: (1) exercise its right under the lease to repossess the property and begin looking for a replacement tenant, and (2) seek damages against ApplianceSmart and JanOne, Inc (the guarantor on the lease and ApplianceSmart's previous parent company). We'll explain ApplianceSmart's defaults and Trustees Main's remediation in turn.

A.

To understand the trajectory of this case, it helps to trace the evolution of ApplianceSmart's and Trustees Main's lease agreement. That evolution is largely defined by two driving forces: changes in ApplianceSmart's corporate structure and ownership, and ApplianceSmart's repeated defaults.

Start with the lease's evolution until ApplianceSmart's first default. The lease originally stood between ApplianceSmart's predecessor in interest, Appliance Recycling Centers of America, Inc. (ARCA), and Trustees Main's predecessor. The following years saw changes to both the parties' corporate structures and to the lease itself. First, ARCA shifted roles from tenant

to guarantor in 2017. At that point, ApplianceSmart itself—now a separate corporate entity owned by ARCA—took over as tenant. At the same time, the parties extended the lease term until June 30, 2025.

So by mid-2017, the lease stood between Trustees Main as lessor, ApplianceSmart as lessee, and ARCA as guarantor, with an end date in late June 2025.

That brings us to the first of ApplianceSmart's relevant defaults.[1] It failed to pay rent in 2019. To resolve the state-court lawsuit that Trustees Main filed against it for that failure, ApplianceSmart agreed to pay a portion of the amount it owed. And, as part of the same agreement, the parties acknowledged ARCA's reincorporation into JanOne, Inc.—a co-defendant here—and ratified its continuation as guarantor. JanOne also assumed ARCA's place as ApplianceSmart's parent company.

Also in 2019, JanOne sold ApplianceSmart to a different company, Live Ventures, Inc. But Live Ventures never took over as guarantor on the lease, leaving that role to JanOne.

The second relevant default occurred during ApplianceSmart's bankruptcy in 2021. By that point, ApplianceSmart, "like many, many retailers in the country, [was going] through a lot of difficulties." R.92, PageID 669. Those troubles pushed it into defaulting on the lease and into bankruptcy. Even so, ApplianceSmart designated the Trustees Main location as a "surviving premises" that it would continue operating through the bankruptcy. *Id.* at PageID 668. So the parties entered into yet another agreement modifying the lease. Live Ventures—ApplianceSmart's new parent company—agreed to pay over $185,000 in back rent. And Trustees Main (having been

[1] It appears that ApplianceSmart may have also defaulted in 2017 after a fire allegedly rendered the premises unusable. ApplianceSmart interpreted the lease to require Trustees Main to repair the property and pay its damages, so ApplianceSmart refused to pay rent. The parties settled that dispute, and no one addresses it before us despite the evidence about it in the record.

burned at least twice by this point) inserted a new, non-reciprocal right to terminate the lease with 30 days' notice, even if ApplianceSmart wasn't in default.

That brings us to the third default—the one that kicked off this lawsuit. In February 2022, ApplianceSmart defaulted on its rent payments again. This time, Trustees Main opted against conciliation. Instead, it exercised its rights under the original lease agreement (the terms of which were incorporated by each modification) to repossess the property without terminating the lease. Section 23 of the lease—the provision Trustees Main cited in its letter informing ApplianceSmart of its intention to repossess and relet the property—empowers Trustees Main, in the event of a default, to

> [e]lect to immediately, or at any time . . . and without terminating this Lease . . . take absolute possession of the [Premises] . . . and change the locks. Tenant covenants and agrees that notwithstanding any such reentry by Landlord, it shall pay and be liable for . . . Rent and other charges [] as they would . . . if Landlord had not re-entered . . . , together with all Reletting Costs, . . . whether the Premises be relet or remain vacant in whole or in part or for a period less than the remainder of the Term, or for the whole thereof.

Pl.'s Trial Ex. P1, App. p.46. In practical terms, Trustees Main locked ApplianceSmart out of the store without letting it off the hook for rent payments.

Summed up, ApplianceSmart defaulted on the lease three times in as many years—once in 2019, again in 2021, and a third time in 2022. At some point in 2019—whether before or after the first default isn't clear from the record—ApplianceSmart's ownership changed hands from JanOne's to Live Venture's. Even so, JanOne continued in its capacity as guarantor.

After Trustees Main ousted ApplianceSmart, it (1) began looking for a replacement tenant, and (2) sought damages for breach of contract against ApplianceSmart and JanOne as guarantor. We'll describe those remedial efforts next.

B.

Start with the new-tenant search. The lease required Trustees Main to "mitigate damages to the extent required by applicable law," including the use of "commercially reasonable efforts" to relet the property. Pl.'s Trial Ex. P1, App. p.48; *see also id.* at p.46 ("Landlord agrees, at the cost of Tenant, to take commercially reasonable efforts to relet the Premises."). And the lease required Trustees Main to credit rent received from the replacement tenant against ApplianceSmart's unpaid rents and other obligations.

JanOne, the lease guarantor, presented two potential replacements to Trustees Main: ARCA Recycling and Flooring Liquidators.[2] In addition to considering those options, Trustees Main's leasing agent conducted an independent search to invite other proposals.

But Trustees Main wasn't enthusiastic about either of JanOne's proposed tenants. The ARCA Recycling proposal raised red flags because, "[it] was owned by JanOne," which was the guarantor during ApplianceSmart's three defaults. Appellee Br., p.12 (citation modified). On top of that, ARCA Recycling planned to assume the existing lease and continue doing business as ApplianceSmart—the same brand that faced sufficiently many "difficulties" to default at least three times and go into bankruptcy. R.92 PageID 566, 669; *see also* Appellee Br., p.12 (Trustees Main "did not want to take effectively the same people who had walked away three times before and hand them the keys a fourth time" (citation modified)). So to protect itself in case ARCA Recycling was just the same old wine in a new-ish bottle, Trustees Main proposed precautionary

[2] At trial, JanOne's former CEO testified that JanOne presented a third option, a Live Ventures subsidiary called Vintage Stock. Trustees Main's leasing counsel didn't recall any such proposal, and nothing in the record reflects discussions about Vintage Stock. So the district court declined to consider the alleged proposal as part of its mitigation analysis, and ApplianceSmart and JanOne abandoned any argument based on Vintage Stock on appeal.

conditions on the deal. Those conditions included prepayment of all back rent and fees and a nonrefundable deposit of six months' rent. JanOne balked at the nonrefundable-deposit proposal, so the deal didn't proceed.

The second proposal didn't fare any better. Live Ventures—ApplianceSmart's latter-day owner—offered another one of its portfolio companies, Flooring Liquidators. Like ARCA Recycling, that proposal suffered from defects. First, Live Ventures presided over ApplianceSmart's 2021 and 2022 defaults (because it bought the business from JanOne in 2019). Second, Live Ventures was the target of a still-pending SEC enforcement action.[3] *See S.E.C. v. Live Ventures Inc.*, No. 2:21-cv-1433 (D. Nev. Aug. 2, 2021). And third, JanOne's CEO sits on Live Ventures's board. So there was a "commonality of key decisionmakers" between JanOne—whose record as guarantor on the ApplianceSmart lease wasn't sterling—and Flooring Liquidators. Appellee Br., p.14 (citation modified). Despite the risks, Trustees Main engaged with Live Ventures, sending the latter a standard questionnaire asking for Flooring Liquidators' business fundamentals. Live Ventures refused to provide written answers to the questions, so the Flooring Liquidators proposal went nowhere.

Instead, Trustees Main opted to go its own way. It tasked its leasing agent with putting out feelers almost immediately after ApplianceSmart's third default. Multiple retailers expressed interest, but most failed to progress past initial talks. Save for one: AutoZone. After more than two years of consideration, AutoZone signed a lease in September 2024. But because of AutoZone's unique zoning and permitting needs, the lease baked in multiple "approval periods" and extensions, which allowed it to "have time to investigate and confirm that they are able to

[3] Trustees Main doesn't mention it in its brief, but JanOne was also a defendant in the SEC enforcement action.

operate their use within the premises prior to fully committing to the deal." R.92, PageID 526–28. So AutoZone didn't start paying rent until well after ApplianceSmart's lease term ran out.

C.

Concurrent to the tenant search, Trustees Main sued ApplianceSmart and JanOne for breach of contract. That's this case.

The district court resolved competing dispositive motions partially in Trustees Main's favor. The defendants didn't dispute that they breached the lease and the guaranty, but they argued that Trustees Main failed to reasonably mitigate its damages by rejecting ARCA Recycling and Flooring Liquidators and holding out for a better option of its own choosing. The district court awarded Trustees Main the portion of back rent that the defendants didn't dispute, but found a genuine dispute on whether Trustees Main reasonably mitigated the rest of its damages. So it scheduled a bench trial on the mitigation issue.

At the bench trial, the district court heard the evidence and concluded that Trustees Main reasonably mitigated its damages. This appeal followed.

II.

This appeal calls us to answer a single question: Did Trustees Main exercise commercially reasonable efforts to mitigate its damages after ousting ApplianceSmart? Reviewing the question de novo,[4] we conclude that it did.

[4] Federal Rule of Civil Procedure 52 provides that, on appeals from bench trials, we review legal conclusions de novo and factual findings for clear error. *Byrne v. United States*, 857 F.3d 319,326 (6th Cir. 2017). Applying that standard to a given issue requires a threshold determination: Does the argument go to a legal conclusion or a factual finding? On that front, the parties seem to agree that the reasonableness of a lessor's mitigation efforts presents a legal question. The district court, too, treated reasonableness as a conclusion of law after the bench trial.

But we're not so sure. In some contexts, we treat reasonableness as a purely legal issue for resolution by a court subject to de novo review. *See, e.g.*, *Dunn v. Matatall*, 549 F.3d 348, 353

A.

First, a word on subject-matter jurisdiction. At oral argument, we raised Trustees Main's failure to sufficiently plead the parties' citizenship to invoke the federal courts' diversity jurisdiction. So we asked the parties to submit letter briefs to address that problem. And based on the information they've provided, we're satisfied that the parties are diverse and that we can proceed to the merits.[5]

We begin with the complaint. *See* Fed. R. Civ. P. 8(a)(1) (requiring a "short and plain statement of the grounds for the court's jurisdiction"), 12(b)(1) (providing for dismissal based on a complaint's failure to establish subject-matter jurisdiction). The most we can glean from it is that Trustees Main sought to invoke the federal courts' diversity jurisdiction. And even then, the only indication to that effect is a footnote on the complaint's second-to-last page.

Though Trustees Main's complaint identified diversity jurisdiction in passing, it failed to establish the basis for that jurisdiction. Diversity jurisdiction has two fundamental requirements. First, there must be "complete diversity such that no plaintiff is a citizen of the same state as any defendant." *V & M Star, LP v. Centimark Corp.*, 596 F.3d 354, 355 (6th Cir. 2010) (citing 28

(6th Cir. 2008) (quoting *Scott v. Harris*, 550 U.S. 372, 381 n.8 (2007)). In others, we treat reasonableness as a mixed question of law and fact subject to more deferential review. *See, e.g.*, *Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am. v. Aguirre*, 410 F.3d 297, 304 (6th Cir. 2005) (Rule 11 reasonableness determinations). And for what it's worth, *Dahdah v. Rocket Mortgage, LLC*, 166 F.4th 556, 577 (6th Cir. 2026) (noting that fact/law distinction might be a matter of federal law in diversity cases), Ohio courts consistently treat the question of "[w]hether a landlord has made reasonable efforts to mitigate its damages [as] a question for the trier of fact." *Apple Ohio, LLC v. Rose Italian Kitchen Solon, LLC*, 223 N.E.3d 601, 605 (Ohio Ct. App. 2023) (collecting cases). All that said, the parties haven't briefed the issue, and we have no need to resolve it here because Trustees Main prevails even if we give the trial court no deference.

[5] For what it's worth, even though the parties can't confer subject-matter jurisdiction on federal courts by consent, Defendants have never contested that federal jurisdiction is proper.

U.S.C. § 1332). And second, the "amount in controversy" must be greater than $75,000. 28 U.S.C. § 1332.

Only the first requirement—that no plaintiff share its citizenship with any defendant—is at issue here. The complaint failed to establish any party's citizenship, making it impossible to determine whether complete diversity exists based on the complaint alone. It described Trustees Main simply as "an Ohio corporation," ApplianceSmart as a "Minnesota [c]orporation," and JanOne as a "Nevada [c]orporation." R.1, PageID 1–2. None of those descriptions are helpful. First, Trustees Main isn't a corporation—it's a limited liability company, or LLC. And to determine an LLC's citizenship, we must look to "the citizenship of each partner or member." *V & M Star, LP*, 596 F.3d at 356 (citation modified). Moreover, because LLCs can resemble nesting dolls—their members can themselves be comprised of multiple sub-members—we must determine the membership of each sub-member to settle the members' citizenship, and therefore the LLC's. *See id.* The complaint doesn't address anything of the sort. And as to ApplianceSmart and JanOne—which are corporations—merely pleading the name of a state doesn't suffice. To plead a corporation's citizenship, a plaintiff must state the corporation's state of incorporation and principal place of business. *See id.* at 355. Again, Trustees Main's complaint doesn't do that either.

But the complaint's deficient jurisdictional allegations needn't spell doom for Trustees Main's appeal. "Defective allegations of jurisdiction may be amended . . . in the trial or appellate courts." 28 U.S.C. § 1653. As long as a party seeks only to correct incomplete jurisdictional allegations—and not evade jurisdictional defects like the presence of a factually nondiverse party—appellate courts can permit such amendments. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 830–32 (1989). In other words, 28 U.S.C. § 1653 allows parties to furnish

allegations establishing jurisdiction that already existed at the time the lawsuit commenced, but not to alter the suit's factual basis to create jurisdiction where none existed. *See id.*

We're satisfied that the information in the parties' post-argument letter briefs sufficiently "remed[ies] [the] inadequate jurisdictional allegations" to permit amendment under 28 U.S.C. § 1653. *Newman-Green*, 490 U.S. at 832.

Start with Trustees Main's citizenship. Since it's an LLC, it takes on the citizenship of its members. *V & M Star, LP*, 596 F.3d at 356. Its sole member is, in turn, a general partnership called Schottenstein Trustees. As a partnership, Schottenstein Trustees' citizenship is defined by its partners' citizenships. *Grant Cnty. Deposit Bank v. McCampbell*, 194 F.2d 469, 471 (6th Cir. 1952). Schottenstein Trustees has four partners: two other partnerships, a trust, and another LLC. The first sub-partnership is composed entirely of trusts. And "a trust's citizenship is based on its trustee's citizenship."[6] *Halbower Tr. of Halbower Legacy Tr. v. Hiscox Syndicate 33 of Lloyd's of Lond.*, 178 F.4th 254, 258 (6th Cir. 2026). All of the trustees are citizens and residents of Ohio or Florida. So the first sub-partnership is a citizen of Ohio and Florida. The second sub-partnership follows the same pattern: It is comprised of trusts, and each trustee is a citizen and resident of Ohio or Florida. Third, the sub-trust's trustee is a citizen and resident of Ohio or Florida. And fourth, the sub-LLC's members are all trusts whose trustees are citizens and residents of Ohio or Florida. All told, then, all of Schottenstein Trustees' members are citizens of Ohio or

[6] Trustees Main also offered the citizenship of the sub-trusts' beneficiaries, worried that "some courts hold that examining the citizenship of the beneficiaries is appropriate in certain contexts." Supplemental Br. of Appellee, p.8. We're not sure which courts fall into that class. (Trustees Main didn't tell us.) And longstanding authority establishes the opposite: that trustees' citizenship, not beneficiaries', determines a trust's citizenship. *See Coal Co. v. Blatchford*, 78 U.S. 172, 174–75 (1870). So we'll focus on the trustees' citizenship to determine the trusts' citizenship.

Florida, so Schottenstein Trustees is a citizen of the same states. And because Schottenstein Trustees is the sole member of Trustees Main, the latter is also a citizen of Ohio and Florida.

Now for ApplianceSmart and JanOne. As the defendants explain, ApplianceSmart is incorporated in Minnesota and has its principal place of business in Nevada. And JanOne is both incorporated in and has its principal place of business in Nevada. So the defendants are citizens of Minnesota and Nevada.

To sum it all up: The parties' supplemental briefing tells us that, for jurisdictional purposes, Trustees Main is a citizen of Ohio and Florida, and the defendants are citizens of Minnesota and Nevada. We accept those representations as jurisdictional-fact amendments under 28 U.S.C. § 1653. As such, the briefs show that no plaintiff shares a state of citizenship with any defendant. So because we have subject-matter jurisdiction through diversity of citizenship, we can proceed to the merits of the appeal.

B.

Now for the merits. Ohio law doesn't support the argument that non-breaching commercial lessors must mitigate their damages by dealing with demonstrably risky alternative lessees.

Ohio courts describe the duty to mitigate damages in breach-of-contract cases by referring to the Restatement (Second) of Contracts. The doctrine generally "provides that damages which the injured party might have avoided with reasonable effort without undue risk, expense, or humiliation are not to be charged against the party guilty of breaching the contract." *Bradley v. Pentajay Homes, Div. of C&E Stores, Inc.*, 1991 WL 122853, at *4 (Ohio Ct. App. July 3, 1991) (citing Restatement (Second) of Contracts § 350); *see also Chilli Assocs. Ltd. P'ship v. Denti Rests. Inc.*, 2022 WL 807010, at *6 (Ohio Ct. App. Mar. 8, 2022).

The Ohio Supreme Court elaborated on the duty to mitigate a commercial lease breach in *Frenchtown Square Partnership v. Lemstone, Inc.*, 791 N.E.2d 417 (Ohio 2003). There, it explained that commercial lessors "have a duty, as all parties to contracts do, to mitigate their damages . . . by attempting to rerent the property." *Id.* at 421 (citation modified). It also emphasized that the duty to mitigate "does not require a lessor to accept just any available lessee." *Id.* Instead, "[t]he duty . . . requires only reasonable efforts." *Id.*

Applying those principles here confirms the district court's determination that Trustees Main exerted reasonable efforts to mitigate its damages.

Start with what Trustees Main didn't do: take on potential alternative lessees that would have posed "undue risk" of further default. Restatement (Second) of Contracts § 350(1). As we described above, both ARCA Recycling and Flooring Liquidators—the two alternatives presented by JanOne and Live Ventures, respectively—suffered from the same problem: their parent companies' poor track records operating ApplianceSmart. And Ohio law doesn't require lessors to accept "just any available lessee"—it allows lessors to be selective. *Frenchtown*, 791 N.E.2d at 421.

Now consider what Trustees Main did: conduct a broad-ranging, multi-year search for a reliable new tenant. That search took several years to bear fruit. And when it did, the new tenant, AutoZone, required considerable time to conduct due diligence, conform the space to its requirements, and move in. Long enough that Trustees Main couldn't start collecting rent until after the ApplianceSmart lease term ended. But that doesn't diminish the reasonableness of its efforts, because Trustees Main undoubtedly "attempt[ed] to rerent the property." *Id.* And the time Trustees Main took to secure AutoZone wasn't for lack of trying. It pursued multiple leads for a replacement tenant. But for reasons outside its control—perhaps the very market forces that drove

ApplianceSmart out of business—it took time for a retailer to commit to the location, time that Trustees Main couldn't reasonably shorten.

ApplianceSmart's arguments to the contrary are unconvincing. First, it argues that it was unreasonable for Trustees Main to require ARCA Recycling to "pay the back rent owed by" ApplianceSmart. Appellant Br., p.10 (quoting *Cobblestone Square II Co. v. L & B Food Servs., Inc.*, 2011 WL 4389918, at *8 (Ohio Ct. App. Sept. 22, 2011)). But the case it cites for support shows that it's unreasonable for the lessor to demand back rent only when "the other company intended to negotiate its own lease for the empty space, rather than assume [the defaulting company's] lease." *Cobblestone*, 2011 WL 4389918, at *8. Here, ARCA Recycling was trying to assume ApplianceSmart's old lease, not negotiate a new one. So ARCA Recycling would've been on the hook for ApplianceSmart's arrears anyway. And the additional conditions that Trustees Main would've required ARCA Recycling to meet—e.g., putting up a nonrefundable security deposit—reflected a reasonable response to the risk of working with the subsidiary of the thrice-defaulting guarantor.

As mentioned above, Trustees Main required that ARCA Recycling meet additional precautionary proposed terms, including a nonrefundable security deposit of six months' rent and prepayment of all back rent and fees, among others. To wit, JanOne declined and the deal didn't go through. Keep in mind, ARCA Recycling is an ApplianceSmart and JanOne affiliate—a set of entities having already defaulted three times as a guarantor. Given their previous dealings with JanOne, taking on ARCA Recycling as a tenant without the proposed precautionary measures would cause Trustees Main to assume "undue risk." *See* Restatement (Second) of Contracts § 350. As such, Trustees Main's efforts to cover their bet with JanOne was a "reasonable effort without undue risk." *Bradley*, 1991 WL 122853, at *4.

Next, ApplianceSmart leans on a faulty analogy to federal employment-discrimination caselaw. In *Ford Motor Co. v. EEOC*, the Supreme Court explained that an employment-discrimination claimant is "required to minimize his damages by accepting . . . the defendant's unconditional offer" of reemployment. 458 U.S. 219, 232–33 (1982). Relying on *Ford Motor*, ApplianceSmart deems ARCA Recycling's and Flooring Liquidator's lease proposals to be the same as an employer's unconditional offer of reemployment. So it argues that Trustees Main failed to mitigate its damages by rejecting those proposals. But that reasoning faces problems. First, ApplianceSmart didn't explain why we should interpret state common-law mitigation doctrine by reference to federal statutory mitigation doctrine. And second, ApplianceSmart's position turns on a faulty premise: that the replacement-tenant proposals look like an employer's unconditional offer of reemployment. They don't. An unconditional offer, in the employment-discrimination context, must be one "offering the claimant *the job he sought*" as a judicial remedy for the discrimination. *Id.* at 232 (emphasis added); *see also* 42 U.S.C. § 2000e-5(g) (providing for reinstatement, with or without back pay, as a remedy for employment-discrimination claims). But Trustees Main never "sought" to lease a space to ARCA Recycling or Flooring Liquidators as tenants by suing ApplianceSmart. Trustees Main didn't want another tenant that presented an undue risk of default for the same reason as the outgoing tenant, *see* Restatement (Second) of Contracts § 350, and ApplianceSmart hasn't identified a single case—nor have we been able to find one—suggesting otherwise.

Finally, ApplianceSmart argues that Trustees Main unreasonably declined an offer for the property it received from a potential buyer. But it likely forfeited that argument by failing to present a sale-based mitigation theory in its proposed findings after the bench trial. *See Woodruff v. Nat'l Life Ins. Co.*, 341 F. App'x 113, 120 (6th Cir. 2009) (finding party failed to preserve issue

when it didn't propose, and district court didn't find, facts or legal conclusions on the issue). Moreover, courts have explained that landlords do "not have to agree to a sale of the building to mitigate [their] damages." *Chilli*, 217 N.E.3d at 157 (citing *Frenchtown*, 791 N.E.2d at 421).

III.

For those reasons, we affirm.