

IN THE SUPREME COURT OF THE STATE OF NEVADA

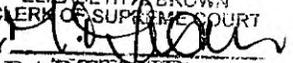
TKNR, INC., A CALIFORNIA  
CORPORATION,  
Appellant,  
vs.  
WLAB INVESTMENT, LLC,  
Respondent.

No. 85620

FILED

NOV 17 2023

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT

BY   
ELIZABETH A. BROWN

*ORDER AFFIRMING IN PART, REVERSING IN PART AND  
REMANDING*

This is an appeal from a district court order denying a request for attorney fees and costs. Eighth Judicial District Court, Clark County; Linda Marie Bell, Judge.<sup>1</sup>

Respondent WLAB Investment, LLC filed the underlying action, alleging generally that appellant TKNR, Inc. had fraudulently induced WLAB into purchasing an apartment building that contained numerous defects. The district court granted summary judgment for TKNR and awarded TKNR roughly \$128,000 in attorney fees under NRCP 11, finding WLAB's action was frivolous. This court affirmed the summary judgment order, but it reversed the attorney fee award because the district court failed to adhere to NRCP 11's procedural requirements. *WLAB Inv., LLC v. TKNR, Inc.*, Nos. 82835 & 83051, 2022 WL 1510391 (Nev. May 12, 2022) (Order Affirming (Docket No. 82835) and Reversing (Docket No. 83051)). Thereafter, TKNR sought attorney fees and costs under the parties' contract, NRS 18.010(2)(a), NRS 17.117, and NRCP 68, which the district court denied as untimely under NRCP 54. This appeal followed.

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<sup>1</sup>Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted in this appeal.

TKNR contends it timely moved for attorney fees. We agree. Generally, we review decisions awarding or denying attorney fees for an abuse of discretion, but when, like here, the matter implicates questions of law, the proper review is de novo. *Pardee Homes of Nev. v. Wolfram*, 135 Nev. 173, 176, 444 P.3d 423, 425-26 (2019).

Although we reversed the attorney fee award in favor of TKNR in Docket No. 83051, that decision was limited to the district court's application of NRCP 11. Thus, on remand, the district court was not precluded from evaluating TKNR's attorney fees request under NRS 18.010(2)(b).<sup>2</sup> *Dictor v. Creative Mgmt. Servs., LLC*, 126 Nev. 41, 44-45, 223 P.3d 332, 334 (2010) (holding subsequent courts are free to resolve issues that the appellate court did not decide either explicitly or by necessary implication); *Wheeler Springs Plaza, LLC v. Beemon*, 119 Nev. 260, 266, 71 P.3d 1258, 1262 (2003); 18B Charles Alan Wright, Arthur R. Miller, & Edward H. Cooper, *Federal Practice and Procedure* § 4478.3 (2d ed. 2019) (“[T]he appellate mandate commonly leaves the trial court free to decide matters that were not resolved on appeal.”).

NRCP 54(d)(2)(B)(i) states that a motion for attorney fees and costs must be filed within 21 days after written notice of the judgment's entry is served and it must “specify the judgment and the statute, rule, or other grounds entitling the movant to the award.” In this case, TKNR made its initial request for attorney fees and costs under NRS 18.010(2)(b) within its motion for summary judgment followed by a declaration of counsel after

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<sup>2</sup>Contrary to the district court's conclusion on remand, TKNR argued in its answering brief in Docket No 83051 that the sanctions could have been awarded under NRS 18.010(2)(b). This court did not reach that issue or preclude the district court from doing so on remand.



cc: Hon. Danielle K. Chio, District Judge  
James A. Kohl, Settlement Judge  
Michael B. Lee, P.C.  
Kaempfer Crowell/Las Vegas  
Eighth District Court Clerk