

2200.1 CONVERSION: REFUSAL TO RETURN UPON DEMAND (REFUSAL BY BAILEE)

A conversion is committed by a person who, without justification, refuses to surrender possession of property to one who is entitled to it. Before you may find that (defendant) committed a conversion of the property belonging to (owner), (plaintiff) must establish:

1. that (defendant), who had lawfully come into possession of the property, refused to surrender it to (owner) after (owner) demanded that the property be returned;
2. that (owner) was entitled to the return of the property; and
3. that the withholding of the property by (defendant) seriously interfered with the right of (owner) to control and use the property.

A refusal by a person to return the property because of a legitimate reason and for a reasonable length of time after demand is not a conversion. In addition, a person is not required to comply with a demand made at an unreasonable time or place, or in an unreasonable manner, or upon an employee who has no authority to return the property. [In addition, a person may in good faith detain property for a reasonable time to identify (owner) or to determine (owner)'s right to possession.]

COMMENT

This instruction was approved in 1986. Editorial changes were made in 1993 to address gender references in the instruction. No substantive changes were made to the instruction.

Price v. Ross, 62 Wis.2d 335, 346, 214 N.W.2d 770 (1974); Donovan v. Barkhausen Oil Co., 200 Wis. 194, 198, 227 N.W. 940 (1929). Restatements, Second, Torts §§ 237-40 (1965). Prosser, Torts 4th Ed., § 15, p. 90-91 (1971).

See also Comment to Wis JI-Civil 2200.