

Randy Red

Plaintiff,

Case No. 2025 CV 242

vs.

Big Box Mart, Inc.

Defendant.

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DEFENDANT’S ANSWER, AFFIRMATIVE DEFENSE & COUNTERCLAIM

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Defendant, Big Box Mart, Inc, by its attorney, Jack Graue, answers the Plaintiff’s complaint as follows:

THE PARTIES

1. Answering Paragraph 1 of Plaintiff’s Complaint, admits.
2. Answering Paragraph 2 of Plaintiff’s Complaint, admits.

JURISDICTION AND VENUE

3. Answering Paragraph 3 of Plaintiff’s complaint, Defendant neither admits nor denies because this is a conclusion of law, and not an allegation of fact.
4. Answering Paragraph 4 of Plaintiff’s complaint, Defendant neither admits nor denies because this is a conclusion of law, and not an allegation of fact.

FACTUAL ALLEGATIONS

5. Defendant admits the allegation in Paragraph 5 of the complaint.
6. Defendant admits the allegation in Paragraph 6 of the complaint.
7. Defendant admits the allegation in Paragraph 7 of the complaint.
8. Defendant admits the allegation in Paragraph 8 of the complaint.

9. Defendant admits the allegation in Paragraph 9 of the complaint.
10. Defendant admits the allegation in Paragraph 10 of the complaint.
11. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 11 of the complaint and therefore denies the same and puts the plaintiff to his strictest proof thereon.
12. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 12 of the complaint and therefore denies the same.
13. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 13 of the complaint and therefore denies the same.
14. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 14 of the complaint and therefore denies the same.
15. Answering Paragraph 15 of the complaint, Defendant admits that Plaintiff was summoned to Dickerson's office but denies the alleged content of the conversation had by Plaintiff and Dickerson.
16. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 16 of the complaint and therefore denies the same.
17. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 17 of the complaint and therefore denies the same.
18. Defendant has no knowledge or information sufficient to form a belief as to the truth of the allegation in Paragraph 18 of the complaint and therefore denies the same.
19. Defendant admits the allegation in Paragraph 19 of the complaint.

20. Answering Paragraph 20 of the complaint, Defendant admits that Plaintiff's position was filled by a 23-year-old employee but denies that said employee was 'unqualified'.

#### AFFIRMATIVE DEFENSE

21. The Defendant asserts Plaintiff was not fired because of his age, he was, rather, fired for cause. Plaintiff therefore cannot sustain their claim under 29 USC 621.

#### COUNTERCLAIM

Defendant, Big Box Mart, Inc., by its attorney, Jack Graue, alleges the following Counterclaim against Plaintiff:

22. Plaintiff filed a Complaint against Defendant, which is incorporated into this Counterclaim by reference.
23. Defendant filed an Answer, which is incorporated into this Counterclaim by reference.
24. On November 10<sup>th</sup>, 2024, Randy Red took home a M18 FUEL 18V Lithium-Ion Brushless Cordless Jig Saw at the end of his shift, valued at \$229
25. On November 15<sup>th</sup>, 2024, Randy Red took home a 15 Amp Corded 12 in. Double Bevel Sliding Compound Miter Saw at the end of his shift, valued at \$449
26. On November 21<sup>st</sup>, 2024, Randy Red took home a 8V Cordless 3/8 in. Drill/Driver Kit at the end of his shift, valued at \$49.
27. All items described in paragraphs 24, 25, 26 were property of Big Box Mart, Inc.
28. Randy Red took these tools from Big Box Mart intentionally.
29. Big Box Mart did not give Randy Red permission to take these tools at the end of their respective shifts.
30. Randy Red intended to permanently deprive Big Box Mart of these tools.

WHEREFORE, Defendant demands judgment against plaintiff as follows:

- a. Dismissing Plaintiff's Complaint on the merits and with prejudice;
- b. An order awarding compensatory damages in an amount that is to be determined at trial;
- c. an order awarding reasonable attorney's fees and costs, and;
- d. an order directing such other and further relief as deemed necessary by the Court.

JURY DEMAND

Defendant demands a trial by a jury of 12.

Dated this 2<sup>nd</sup> day of December, 2025.

Cooper & Kropp  
Attorneys for the Plaintiff

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Jack Graue

State Bar No. 3088710

Address:

1701 Wright Street  
Madison, WI 53704

Phone:

608-123-4567