STATE OF MINNESOTA
IN COURT OF APPEALS
A13-0984

William G. Stone,
Respondent,

vs.

Shawn Clow,
Appellant.

Filed March 10, 2014
Affirmed
Chutich, Judge

Blue Earth County District Court
File No. 07-CV-13-844

Matthew B. Novak, Southern Minnesota Regional Legal Services, Mankato, Minnesota (for respondent)

Cory A. Genelin, Abbie S. Olson, Gislason & Hunter LLP, Mankato, Minnesota (for appellant)

Considered and decided by Connolly, Presiding Judge; Chutich, Judge; and Smith, Judge.

U N P U B L I S H E D O P I N I O N

CHUTICH, Judge

In this tenant-remedies dispute, appellant Shawn Clow argues that the district court erroneously excluded certain exhibits from evidence, erred in finding appellant to be a landlord, and erred in applying landlord-tenant law instead of statutes applicable to

innkeepers. Because admission of the exhibits would not have changed the result of the case, and because the district court correctly applied the law to this landlord-tenant relationship, we affirm.

FACTS

On February 1, 2013, appellant Shawn Clow and respondent William Stone signed a document entitled "Extended Stay – Residential Lease" (agreement). The agreement provides that Stone will rent a unit at Riverside Suites from February 1, 2013, until April 30, 2013. Clow is the majority shareholder of Riverside Suites and works there as a leasing agent and manager. The agreement states that Stone owes $625 on the first of every month to rent unit number 229. Clow referred to the agreement as a "stay agreement," while Stone referred to the document as a "lease."

Stone paid the first month's rent when he signed the agreement. Stone also signed a document entitled "Security Deposit Agreement," and he paid $625 for the security deposit. Stone attends college in Mankato, and he intended for his occupancy in the rental unit to last until "the end of [his] semester."

On February 8, 2013, Stone approached Clow to ask about installing a new stove and television. According to Clow, Stone was acting belligerently in the lobby and did not return to his room after Clow and the receptionist asked him to do so. Clow claimed that Stone walked over the newly tiled lobby floor and caused damage to the tiles. Clow called the police, and because Stone had an active warrant in an unrelated matter, the police arrested him. The police took Stone to the emergency room because he had an asthma attack, and, afterwards, took him back to Riverside Suites.

Clow changed the lock to Stone's rental unit on approximately February 9, 2013. On Monday, February 11, Stone returned to Riverside Suites and found that he was locked out of his rental unit. According to Clow, he called the police again because a "no trespass" order had been issued, and the police "took [Stone] away in handcuffs." After not being allowed back into Riverside Suites, Stone stayed in a homeless shelter.

Stone sued Clow, claiming that Clow "unlawfully ousted or excluded" him from the rental unit. *See* Minn. Stat. §§ 504B.231; 557.08, .09 (2012). Stone requested full rescission of the lease, monetary damages, and attorney's fees. A court hearing ensued in which Clow represented himself. Stone testified on his own behalf, and Clow and the property manager at Riverside Suites testified on behalf of Clow.

Both Clow and the property manager testified that they did not formally evict Stone. Clow stated that he did not evict Stone because "the police took him away in handcuffs" and because "he broke the terms of the stay agreement." Clow admitted changing the lock on Stone's rental unit and stated that Stone was not allowed back to Riverside Suites because Stone "was trespassed from the property for the criminal damage that he caused[,] . . . [and] we are waiting for an open investigation to charge him." Clow also testified that "other guests at the hotel had complained about [Stone]" and "loud noises; yelling and screaming." Stone testified that he did not remember walking on the newly tiled floor and did not remember grabbing or assaulting Clow.

The district court concluded that Clow unlawfully excluded Stone from the apartment by locking Stone out. The district court required Clow to pay certain monetary damages and awarded Stone attorney's fees. This appeal followed.

D E C I S I O N

I. Exclusion of Offered Exhibits

District courts have broad discretion in deciding whether to admit evidence, and we review evidentiary rulings for abuse of discretion. *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45–46 (Minn. 1997). "In the absence of some indication that the trial court exercised its discretion arbitrarily, capriciously, or contrary to legal usage, the appellate court is bound by the result." *Id.* at 46.

An improper ruling to exclude evidence is not reversible error "unless a substantial right of the party is affected" and "the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked." Minn. R. Evid. 103(a)(2). "An error in the exclusion of evidence is grounds for a new trial if it appears that the evidence might reasonably have changed the result of the trial if it had been admitted." *Becker v. Mayo Found.*, 737 N.W.2d 200, 214 (Minn. 2007) (quotations omitted).

Clow asserts that it was reversible error for the district court to exclude four exhibits from evidence. We need not decide whether the district court abused its discretion because admission of all of the exhibits would not have changed the result of the trial, and, thus, Clow's substantial rights were not affected.

One of the exhibits, exhibit 3, is purportedly a hotel license for Riverside Suites from the Minnesota Department of Health.[1] Clow told the district court at the hearing that Riverside Suites is a hotel. The admission of the hotel license would not have

[1] A copy of exhibit 3 is not in the record, nor is it included with the parties' briefs.

changed the district court's decision to apply landlord-tenant law. As discussed below, the determination of whether Clow and Stone had a landlord-tenant or innkeeper-guest relationship is based on the particular circumstances and facts of their relationship; it is not based on whether Riverside Suites has a license to operate as a hotel. *See Asseltyne v. Fay Hotel*, 222 Minn. 91, 99, 23 N.W.2d 357, 362 (1946).

The other three exhibits—an estimate of repair costs; an incident log from the Mankato Police Department; and a "Settlement Statement" that lists amounts owed to Riverside Suites—were not relevant to the hearing once the district court determined that landlord-tenant law applied. Clow had an opportunity to tell the district court how Stone allegedly violated the agreement and damaged the property. The district court concluded in its order that it could not assess Clow's claims because he did not "file a formal counter-motion." Thus, the admission of these exhibits would not have affected the judge's determination on whether Stone was unlawfully ousted.

II. Application of Landlord-Tenant Law

We give great deference to a district court's findings of fact, and we set them aside only if clearly erroneous. Minn. R. Civ. P. 52.01; *Porch v. Gen. Motors Acceptance Corp.*, 642 N.W.2d 473, 477 (Minn. App. 2002). But we need not defer to the district court's determination on a legal issue. *Frost-Benco Elec. Ass'n v. Minnesota Pub. Utils. Comm'n*, 358 N.W.2d 639, 642 (Minn. 1984). "When reviewing mixed questions of law and fact, we correct erroneous applications of law, but accord the district court discretion in its ultimate conclusions and review such conclusions under an abuse of discretion standard." *Porch*, 642 N.W.2d at 477 (quotations omitted).

A. Findings of Fact

Clow believes that the district court erroneously ruled that Clow is a landlord. The district court's findings of fact are supported by the record, however. Stone testified that he leased an apartment from Clow, signed a three-month lease on February 1, paid $625 for the first month's rent, and paid $625 for a damage deposit. The extended-stay agreement and the security-deposit agreement support Stone's testimony. Clow also testified that he entered into a "stay agreement" with Stone on February 1 for the term of three months and that Stone paid rent and a security deposit. The district court's factual findings are not "manifestly contrary to the weight of the evidence," and, therefore, we will not disturb them. *See N. States Power Co. v. Lyon Food Products, Inc.*, 304 Minn. 196, 201, 229 N.W.2d 521, 524 (1975).

B. Relationship Between Stone and Clow

Clow asserts that, because Clow was an innkeeper, the district court wrongly applied landlord-tenant law. In particular, he cites Minnesota Statutes section 327.73 (2012), which provides that an innkeeper may remove a guest from a hotel when a guest "acts in an obviously intoxicated or disorderly manner, destroys or threatens to destroy hotel property, or causes or threatens to cause a disturbance." Clow contends that the following factors support a finding that the relationship of innkeeper and guest existed between Clow and Stone: (1) Clow is operating Riverside Suites as a hotel; (2) the property manager testified that "at the hotel we do key cards instead of actual keys"; and (3) there is a "front desk gal."

When he appeared pro se at the district court hearing, Clow did not reference section 327.73 or other innkeeper-guest statutes. "Although some accommodations may be made for pro se litigants, this court has repeatedly emphasized that pro se litigants are generally held to the same standards as attorneys and must comply with court rules." *Fitzgerald v. Fitzgerald*, 629 N.W.2d 115, 119 (Minn. App. 2001). Typically we consider only those issues and theories "presented and considered" by the district court. *Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (quotation omitted). But because Clow was pro se at the district court hearing and because he did claim that Stone was a hotel guest, we will consider his arguments on appeal in the interests of justice. *See* Minn. R. Civ. App. P. 103.04. Even so, for the reasons set forth below, we find Clow's arguments unpersuasive.

To determine whether Clow and Stone had a landlord-tenant or an innkeeper-guest relationship, we look to the specific circumstances of their particular relationship. *Asseltyne*, 222 Minn. at 99, 23 N.W.2d at 362 (considering whether plaintiff and defendant's relationship was that of innkeeper-guest or that of a proprietor and residential lodger to determine the duty that defendant owed to plaintiff). "The length of the stay, the existence of a special contract, the rate or method of payment, and the possession or nonexistence of a home or permanent residence elsewhere are all material, but not necessarily controlling, factors to be considered in determining the question." *Id.* (quotations omitted).

The innkeeper statute that Clow cites provides further guidance. A "hotel" is "a hotel, . . . or other building, which is . . . a place where sleeping or housekeeping

accommodations are supplied for pay to guests for *transient occupancy*." Minn. Stat. § 327.70, subd. 3 (2012) (emphasis added). "Transient occupancy" means "occupancy when it is the intention of the parties that the occupancy will be temporary." *Id.*, subd. 5 (2012). The statute further provides that a rebuttable presumption is established that the occupancy is *not* transient "if the unit occupied is the sole residence of the guest." *Id.*

Applying these principles, we conclude that the district court correctly ruled that a landlord-tenant relationship existed between Clow and Stone. Even recognizing that Riverside Suites operated as a hotel for some guests, the undisputed facts concerning Stone show that the rental unit at Riverside Suites was his only residence, creating a rebuttable presumption that his occupancy was *not* transient. *See id.* Stone was in college, he intended to rent the unit until the end of the semester, he moved all his belongings into the rental unit, and he had nowhere else to live after he was locked out of Riverside Suites.

Moreover, other pertinent facts support this presumption that the relationship was not one of innkeeper-guest, and they show that a landlord-tenant arrangement existed. The nature of the extended-stay agreement itself showed that it was a lease agreement. Entitled "Extended Stay – Residential Lease," the six-page agreement covered a three-month period, it required insurance, it provided for late fees for late payment, and it permitted utility billing, all factors consistent with a landlord-tenant arrangement. In addition, the extended-stay agreement specifically refers to the possibility of eviction for failure to pay or for other violations of the agreement. Further, the security-deposit agreement references Minnesota landlord-tenant law. Finally, Stone paid the first

month's rent and a security deposit before he moved in—practices consistent with a landlord-tenant arrangement. In sum, we conclude that, given these circumstances, the district court properly applied landlord-tenant law to the parties' relationship.

C. Exclusion from Rental Unit

The "only lawful means to dispossess a tenant who has not abandoned nor voluntarily surrendered but who claims possession adversely to a landlord's claim of breach of a written lease is by resort to judicial process." *Berg v. Wiley*, 264 N.W.2d 145, 151 (Minn. 1978). That judicial process is found in Minnesota's eviction statutes. *See* Minn. Stat. §§ 504B.281–.371 (2012). In short, certain procedures must be followed to evict a tenant. *See* Minn. Stat. § 504B.321. Moreover, section 504B.231 provides, "If a landlord . . . unlawfully and in bad faith removes, excludes, or forcibly keeps out a tenant from residential premises, the tenant may recover from the landlord treble damages or $500, whichever is greater, and reasonable attorney's fees." Minn. Stat. 504B.231(a) (2012).

Here, Clow admitted that he did not begin judicial proceedings to evict Stone, but simply locked Stone out of his rental unit. Thus, despite allegations of Stone's bad behavior, Clow's resort to self-help by excluding Stone was wrongful as a matter of law. *See Berg*, 264 N.W.2d at 152 (holding that landlord's "lockout of [tenant] was wrongful as a matter of law"); *see also* Minn. Stat. § 504B.281 ("No person may occupy or take possession of real property except where occupancy or possession is allowed by law, and in such cases, the person may not enter by force, but only in a peaceable manner.").

Affirmed.