STATE OF MINNESOTA
IN COURT OF APPEALS
A12-1552

Carlton Housing & Redevelopment Authority,
Respondent,

vs.

Peter Mason,
Appellant.

Filed April 1, 2013
Affirmed
Harten, Judge[*]

Carlton County District Court
File No. 09-CV-12-1821

Frank Yetka, Rudy, Gassert, Yetka, Pritchett & Helwig, P.A., Cloquet, Minnesota (for respondent)

Peter Mason, Carlton, Minnesota (pro se appellant)

Considered and decided by Connolly, Presiding Judge; Stauber, Judge; and Harten, Judge.

[*] Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

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

HARTEN, Judge

Appellant, an evicted tenant, challenges the judgment for respondent landlord, asserting that the district court's findings that appellant broke the terms of his lease and failed to vacate the property are clearly erroneous. Because we see no error in these findings, we affirm.

FACTS

In April 2010, respondent Carlton Housing & Redevelopment Authority and appellant Peter Mason, a tenant, executed a lease for low-rent public housing to run for one year, then continue month to month. The lease provided in relevant part that appellant would pay $50 per month, would not impair the physical or social environment of the housing project or the social environment for other tenants, and would not permit any other person under his control to engage in any activity that threatened the safety or right to peaceful enjoyment of the premises by the staff and other tenants. Appellant also signed an addendum requiring him, like all non-exempt public housing tenants, i.e., those tenants neither disabled nor over 62 years of age, to contribute eight hours per month of community service.

On 29 June 2012, respondent sent appellant a notice of lease termination and notice to vacate his apartment by 31 July 2012. The notice informed appellant that, in violation of the lease, he had engaged in activity that threatened the safety and right to peaceful enjoyment of the premises by other tenants or employees. Appellant did not

vacate his apartment, thereby causing respondent to bring this eviction action against him.

At the subsequent bench trial, neither party was represented by counsel. Respondent's executive director (E.D.) testified that appellant's tenancy went well until he insisted on wearing pajamas and a robe during the day in the community room. Because other tenants objected, appellant was asked to stop doing this. At his request, he went to the residents' board to have the matter reconsidered. But the board did not resolve the matter to appellant's satisfaction.

E.D. also testified that appellant then began objecting to what was done in the building, such as the removal of the urinal from the men's bathroom in a remodeling project and the placing of a No Smoking sign outside the building. Appellant also objected to the expenditure of funds to make a handicapped-accessible unit out of two apartments, even though the federal government mandated and funded this change.

Finally, E.D. testified that (1) appellant's rent for April, July, and August either had not been paid or was paid late; (2) appellant had not complied with the community service requirement since November 2011; and (3) E.D. had obtained a harassment order against appellant, signed by a different district court judge.[1]

The district court issued findings of fact and conclusions of law that respondent proved by a preponderance of the evidence that: (1) it complied with Minn. Stat. § 504B.181 (2012); (2) notice was properly given and appellant failed to vacate the

[1] E.D. was unable to find a copy of the order during trial, but answered "Yes, I do" when the district court asked, "[Y]ou said you had a Harassment Order[?]."

property; and (3) appellant had broken the terms of the rental agreement and failed to vacate the property. The district court ordered judgment for respondent.

Appellant challenges the judgment, claiming that the district court's findings that appellant broke the terms of the rental agreement and failed to vacate the property are clearly erroneous.

D E C I S I O N

On review of a district court judgment in an eviction action we defer to the district court's credibility determinations and rely on its factual findings unless they are clearly erroneous. *See Cimarron Vill. v. Washington*, 659 N.W.2d 811, 817-18 (Minn. App. 2003). In an eviction proceeding, "the only issue for determination is whether the facts alleged in the complaint are true." *Minneapolis Cmty. Dev. Agency v. Smallwood*, 379 N.W.2d 554, 555 (Minn. App. 1985), *review denied* (Minn. Feb. 19, 1986).

The complaint set out three factual allegations. First, it alleged that, on 27 April 2012, appellant, while intoxicated, had entered another apartment without being invited and intimidated the residents by glaring at them. Testimony supports this allegation. E.D. testified that two elderly female residents were watching television in an apartment when appellant "entered into a unit . . . . He did not knock, he was uninvited, and he intimidated them by standing in the doorway glaring at them." When the district court noted that the women were not present at the hearing, E.D. said that they had obtained a harassment order against appellant, wanted no contact with him, and "won't be in the same room with him."

Appellant testified that, "On April 27th, I came home, I was intoxicated and I was in the hallway. And I have the letters from the two women that were in that apartment. Both state that I came to the door, not into the apartment." In a document he submitted to the district court entitled his "Chronology of Events," appellant (referring to himself in the third person) wrote that he

> celebrated his birthday a little too much and came home and made fun of [G.S.] and [C.T.] through [G.S.'s] open door to the hallway. After a year and a half [appellant] finally let out some frustration at the harassment he received. [Appellant] never "entered" anyone's apartment and was only singing and poking fun at them.

The record does not include letters from G.S. or C.T., and the transcript does not indicate that any such letters were submitted as evidence. Thus, the evidence supports the truth of the allegation that appellant engaged in activity that threatened other tenants' right to peaceful enjoyment of the premises and the district court's finding that he violated the lease.

Second, the complaint also set forth that appellant had "refus[ed] to vacate the custodian's apartment peacefully when asked to leave." Appellant testified:

> I knocked on the door. They [K.B., the custodian, and J., a woman tenant] said come in. [K.B.] was at the computer. [J.] was on the couch. They immediately became agitated, both of them, because they knew they had been busted in the act of [K.B.] exploiting [J.] to retaliate at me.
> . . . .
> [K.B.] went ballistic, "Get out, get out, get out." . . .
> I'm not paranoid . . . but this was unfair. And it's despicable what these people have done.

Again, the evidence supports the truth of the allegation that appellant engaged in activity that threatened other tenants' right to peaceful enjoyment of the premises and the district court's finding that appellant violated the lease.

Finally, the complaint alleged that appellant engaged in "[c]ontinual and on-going written harassment and implied threats to residents, staff and other employees of [respondent]." E.D. testified that the office manager, whose job includes dealing with tenants, "filed a grievance report saying I do not want to have to deal with [appellant], . . . I'm intimidated by him, I do not want to deal with him."

Appellant testified that he

> filed a formal complaint . . . against this woman [E.D.]. I did it through both city halls who appoint the Boards, and it was legitimate. It was necessary and it pointed out that this woman uses a management practice that is completely discriminatory towards men, minorities and any woman that they're jealous of that they target.

When asked if he wanted to say anything about the specific claim that he engaged in activity that threatened other tenants' or employees' right to peaceful enjoyment of the premises, appellant said:

> The only threat I am is to [E.D.'s] maniacal management method of trying to control everything with a system of slander and gossip by favored residents, a handful of favored residents that are mean-spirited divorced women who will say anything on her behalf. And she uses them like a pack of dogs. It is – it is vicious.

When asked about E.D.'s statement that appellant had refused to pay his rent, appellant replied, "[S]he twists and distorts everything. I said [to E.D.] I'll pay it [the rent] when justice is done and you're stopped from your harmful slander." Accordingly,

the evidence shows that appellant interfered with the employees' right to peaceful enjoyment of the premises.

Because we conclude that the allegations of the complaint, and the district court's findings based on those allegations, are supported by the record and are not clearly erroneous, we affirm the district court.

Affirmed.