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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1199**

Public Housing Agency of the City of Saint Paul,
Appellant,

vs.

Deanna Ewig,
Respondent.

**Filed May 20, 2008
Reversed and remanded
Willis, Judge**

Ramsey County District Court
File No. C1-07-2573

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Considered and decided by Shumaker, Presiding Judge; Willis, Judge; and Peterson, Judge.

UNPUBLISHED OPINION

WILLIS, Judge

In this eviction action, appellant housing agency challenges a district-court order denying a writ of restitution. We reverse and remand.

FACTS

Appellant Public Housing Agency of the City of Saint Paul (PHA) brought this action after learning that one of its tenants, respondent Deanna Ewig, smoked crack cocaine and allowed guests to smoke crack cocaine in her apartment. PHA alleged that these actions constitute “a serious violation” of the terms of Ewig’s lease and sought to have Ewig evicted. The district court dismissed the action, concluding that, because Ewig is addicted to cocaine, she is disabled under the federal Fair Housing Act and thus is entitled to a reasonable accommodation, which PHA failed to provide, rendering PHA’s attempt to evict Ewig discriminatory. This appeal follows.

DECISION

On review of a district-court order in an eviction action, we defer to the district court’s findings of fact, and those findings will be upheld unless they are clearly erroneous. *See Minneapolis Cmty. Dev. Agency v. Smallwood*, 379 N.W.2d 554, 555 (Minn. App. 1985) (discussing the standard of review in an unlawful-detainer action, now replaced by an eviction action), *review denied* (Minn. Feb. 19, 1986). But we do not defer to the district court on a purely legal issue. *Frost-Benco Elec. Ass’n v. Minn. Pub. Utils. Comm’n*, 358 N.W.2d 639, 642 (Minn. 1984).

An eviction action is a summary proceeding to determine the present possessory rights to property. *See* Minn. Stat. § 504B.001, subd. 4 (2006). A landlord is entitled to recover possession by eviction when a tenant holds over “contrary to the conditions or covenants of the lease.” Minn. Stat. § 504B.285, subd. 1(2) (2006). The form of the

verdict requires that the district court find only whether “the facts alleged in the complaint are true.” Minn. Stat. § 504B.355 (2006). Applying this standard, the supreme court has stated that “[u]nder the trial court’s limited scope of review in unlawful detainer actions, the court was bound to determine only whether [tenant’s] son engaged in . . . criminal activity and thus whether the lease was broken.” *Minneapolis Pub. Hous. Auth. v. Lor*, 591 N.W.2d 700, 704 (Minn. 1999).

Ewig’s lease provides in part that she shall not allow her guests “to engage in any criminal activity, including drug-related criminal activity.” PHA’s complaint alleges that Ewig violated this provision by allowing guests to smoke crack cocaine in her apartment. The district court “was bound to determine” whether this allegation is true and thus whether Ewig violated the lease. *See Lor*, 591 N.W.2d at 704. The district court failed to do so.

Ewig’s lease also provides in part that Ewig shall not “engage in . . . any criminal activity, including drug-related criminal activity.” PHA’s complaint alleges that Ewig violated this provision by smoking crack cocaine in her apartment. At the hearing, Ewig admitted that she had done so on at least two occasions. Despite this admission, the district court did not enter a specific finding regarding the truth of PHA’s allegation that Ewig had smoked crack cocaine in her apartment. Instead, the district court concluded that, because Ewig is addicted to cocaine, she “has a disability” under the federal Fair Housing Act; that she is entitled to a reasonable accommodation of that disability; and that PHA’s decision to evict her was discriminatory. We disagree.

The federal Fair Housing Act, 42 U.S.C. §§ 3601-3631 (2006), prohibits discrimination against any person in the rental of a dwelling “because of a handicap¹ of that [person].” 42 U.S.C. § 3604(f)(2)(A). Courts have held that recovering drug addicts are handicapped under the act. *E.g., United States v. Southern Mgmt. Corp.*, 955 F.2d 914, 919 (4th Cir. 1992). But the act’s definition of “handicap” contains an exception specifically providing that “such term does not include current, illegal use of . . . a controlled substance.” 42 U.S.C. § 3602(h). Ewig argues that she is not excluded under this provision because her relapse does not constitute “current” illegal use of a controlled substance. We interpret the words of the provision “in accord with [their] ordinary or natural meaning.” *Smith v. United States*, 508 U.S. 223, 228, 113 S. Ct. 2050, 2054 (1993). “Current” means “[b]elonging to the present time.” *The American Heritage Dictionary* 446 (4th ed. 2000). Thus, drug use that is “reasonably contemporaneous with the alleged incidents of discrimination” is excluded from protection under the act. *Fowler v. Borough of Westville*, 97 F. Supp. 2d 602, 609 (D.N.J. 2000). Here, Ewig’s alleged use of crack cocaine occurred two weeks before PHA sought to evict her. Because Ewig’s drug use was reasonably contemporaneous with PHA’s decision to evict her, and was in fact a cause of that decision, she is not “handicapped” under the act.

Our interpretation of the act is also consistent with the principle that statutes should not be interpreted to produce absurd results. *See Rowley v. Yarnall*, 22 F.3d 190, 192 (8th Cir. 1994) (stating that interpretations of statutes that produce absurd results are

¹ The district court consistently refers to Ewig’s condition as a “disability” under the Fair Housing Act, but the Fair Housing Act uses the term “handicap,” not disability. *See* 42 U.S.C. § 3602(h).

to be avoided). The district court concluded that Ewig was entitled to a reasonable accommodation that essentially excused her illegal drug use. Interpreting a federal anti-discrimination law to excuse illegal drug use produces an absurd result. The act's definition of handicap "[wa]s not intended to be used to condone or protect illegal activity." *Southern Mgmt.*, 955 F.2d at 921 (quoting H.R. Rep. No. 100-711 (1988) (reprinted in 1988 U.S.C.C.A.N. 2173, 2183)).

Finally, Ewig argues that she is handicapped because, in addition to her cocaine addiction, she has been diagnosed with minor depression and anxiety disorder. But these diagnoses were not the cause of her eviction. She was evicted for using illegal drugs and allowing others to use illegal drugs in her apartment. The federal Fair Housing Act prohibits discrimination "because of" a handicap. 42 U.S.C. § 3604(f)(2)(A). Even if Ewig's minor depression and anxiety diagnoses are handicaps under the act, they were not the cause of her eviction.

Because the district court failed to enter specific findings regarding the truth of PHA's allegations and misapplied the relevant federal housing law, we reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.