STATE OF MINNESOTA

IN SUPREME COURT

A21-0963

Court of Appeals — Thissen, J.
Dissenting, McKeig, J., Gildea, C.J.

Wilmington Trust, National Association,

Respondent,

vs.

Filed: April 19, 2023
Office of Appellate Courts

700 Hennepin Holdings, LLC,

Respondent,

Gregg Williams, as receiver for 700 Hennepin Holdings, LLC,

Appellant,

Anytime Restoration, Inc.,

Defendant,

Seven Acquisition, LLC,

Respondent.

Jason R. Asmus, Yuka Shiotani, Taft Stettinius & Hollister LLP, Minneapolis, Minnesota, for appellant.

Mark R. Bradford, Andrew L. Marshall, Bassford Remele, P.A., Minneapolis, Minnesota, for respondent Seven Acquisition, LLC.

S Y L L A B U S

1. Under the Minnesota Receivership Act, Minn. Stat. ch. 576 (2022), a receiver is bound by an arbitration provision in a lease agreement between the person over whose property the receiver is appointed and a tenant of that property when the receiver asserts a claim that the tenant breached the lease terms.

2. The lease that formed the basis for the receiver's claim that the tenant must pay rent also required that the claim be submitted to arbitration.

Affirmed.

O P I N I O N

THISSEN, Justice.

The issue in this case is whether a court-appointed receiver seeking to enforce a lease term against a tenant to the property for which the receiver is appointed is bound by an arbitration clause in the lease. 700 Hennepin Holdings, LLC (700 Hennepin), the owner of a building in downtown Minneapolis, entered into a lease (the Lease) with tenant Seven Acquisition, LLC (Seven). As relevant here, the Lease provides that in the event of a breach by the tenant, if the "Tenant in good faith disputes that a Tenant Default exists, Landlord shall not exercise any of its remedies provided herein but shall, as its sole remedy, submit such dispute to binding arbitration . . . ."

In the years before 2020, a dispute arose between 700 Hennepin and Seven over water damage and withheld rent resulting in litigation and arbitration. An arbitrator awarded Seven $826,070.84. Soon thereafter, in September 2020, Wilmington Trust, National Association (Wilmington Trust), as the trustee for several entities that held

mortgages on the building, brought a foreclosure action against 700 Hennepin. As part of the proceedings, the district court appointed Gregg Williams as a limited receiver (the Receiver).

Following appointment of the Receiver, Seven continued to refuse to pay rent despite the Receiver's demand for payment starting from the date of the receivership. Seven asserted that it could withhold rent to recoup monies that 700 Hennepin owed Seven. The Receiver brought a claim against Seven before the judge that appointed him; Seven sought to send the dispute to arbitration. The district court refused to send the dispute to arbitration and resolved the claim itself. It ruled that Seven must make rent payments to the Receiver. The court of appeals reversed, concluding that the Receiver is subject to the arbitration agreement in the Lease, and we granted review.

We affirm the court of appeals. Under the Minnesota Receivership Act, Minn. Stat. ch. 576 (2022) (Receivership Act), a receiver steps into the shoes of the person over whose property the receiver is appointed. When that person is a landlord, the receiver succeeds to the landlord's rights and duties under a lease agreement with a tenant when seeking to enforce the tenant's obligation to pay rent under the lease. We further reject the Receiver's argument that the Lease does not require the dispute over rent to be submitted to arbitration. Accordingly, we hold that the rent dispute between the Receiver and Seven should be submitted to arbitration.

FACTS

The Dispute Between 700 Hennepin and Seven

In January 2017, Seven entered into a lease agreement to operate a restaurant in a building located at 700 Hennepin Avenue (the Building) in downtown Minneapolis. 700 Hennepin purchased the Building and assumed the Lease with Seven in November 2017. As relevant here, the Lease provided:

> 35. TENANT DEFAULT. Any of the following shall constitute a "Tenant Default" for purposes of this Lease: (a) Tenant shall fail to pay any installment of any amount payable by Tenant to Landlord hereunder, or any portion thereof within ten (10) days when the same shall be due and payable
> . . . .
> 36. REMEDIES OF LANDLORD. Upon the occurrence of a Tenant Default, Landlord may elect either: (i) to cancel and terminate this Lease, and this Lease shall not be treated as an asset of Tenant's estate, or (ii) to terminate Tenant's right to possession only without terminating this lease.
> . . . .
> Notwithstanding the foregoing to the contrary, in the event that Tenant, on or before the expiration of any applicable grace period set forth in Paragraph 35, provides notice to Landlord that Tenant in good faith disputes that a Tenant Default exists, Landlord shall not exercise any of its remedies provided herein but shall, as its sole remedy, submit such dispute to binding arbitration to be conducted under the arbitration provisions as set forth in this lease.
> . . . .
> No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy herein or by law provided but each shall be cumulative and in addition to every other right given herein or now or hereafter existing at law or in equity or by statute.

Starting in January 2018, the roof of the Building often leaked, causing water damage to the Building. Water leaked into the restaurant. Seven requested that 700 Hennepin make repairs to fix the leaks, but 700 Hennepin never did so. Then, in February 2019, a pipe burst, causing serious water damage to the Building. As a result of

the water damage, burst pipe, and resulting property damage, Seven suffered lost profits and other damages. Seven then withheld its rent payments because it believed that 700 Hennepin was responsible for the cost of the repairs and Seven's revenue losses.

In February 2019, 700 Hennepin filed an eviction action against Seven in housing court based on Seven's refusal to pay rent. Seven claimed it owed no rent and initiated an action in district court. Seven sought an order to compel 700 Hennepin to arbitrate claims asserted in the eviction action based on section 36 in the Lease. The district court compelled Seven and 700 Hennepin to arbitrate the dispute. The district court determined that "[t]he Lease is clear and unambiguous. The Lease is a binding agreement which requires the parties to arbitrate."

The arbitrator determined that 700 Hennepin was responsible under the Lease for maintenance and repair to the Building roof, that it failed to satisfy its obligation to Seven, and that Seven was entitled to an award of over $900,000 in damages for business losses and the increase in Seven's insurance premium. The arbitrator further found that 700 Hennepin was entitled to approximately $140,000 in unpaid rent. As a result, the arbitration resulted in a net award of $826,070.84 in Seven's favor. Seven moved in district court to confirm the award and obtain judgment against 700 Hennepin based on the award.

The Foreclosure Action

Before the district court confirmed the award, Wilmington Trust, the trustee for mortgagees of 700 Hennepin, started a foreclosure action against 700 Hennepin. Based on a stipulation between Wilmington Trust and 700 Hennepin, a different district court judge (the Receivership Judge) appointed the Receiver as a limited receiver over the Building.

The receivership order granted the Receiver, among other things, the "power to oversee all collection of rents and cash flow."

The Receiver then sought $44,199.95 from Seven, which the Receiver claimed was the amount of rent that Seven owed since the date the Receivership Judge appointed the Receiver. Seven disputed the claim, contending that it owed no rent because the roof still leaked and Seven continued to incur financial losses. In response, the Receiver filed a motion requesting that Seven be ordered to pay to the Receiver "all rent due and owing under the subject lease."

Seven opposed the motion for two reasons. It argued that the dispute over whether any rent is due under the subject Lease must be arbitrated. It also asserted that the doctrine of recoupment gave Seven a complete defense to the Receiver's claim for rent.[1]

The Receivership Judge rejected Seven's arguments. The Receivership Judge found that the Receiver was not required to arbitrate the dispute because the Receiver was not acting as 700 Hennepin, the Receiver did not agree to arbitration as part of his agreement to serve as a court-appointed Receiver, and the Lease did not contain any provisions subjecting *the Receiver* to arbitration. The Receivership Judge reasoned that the Receiver was not subject to an arbitrator's authority because the "receiver was appointed in a limited capacity and is merely acting on behalf of the court for the purpose of protecting [Wilmington Trust's] property interests as a mortgagor."

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[1] The Receivership Judge concluded that the doctrine of recoupment was inapplicable because Seven's judgment was against the landlord, not the Receiver. We do not address the issue of recoupment.

Seven appealed the district court order. The court of appeals was not persuaded that the district court had exclusive authority over the Receiver and the Building under Minn. Stat. § 576.45, subd. 1. *Wilmington Tr. v. 700 Hennepin Holdings*, 971 N.W.2d 750, 756 (Minn. 2022). The court of appeals held that, even though the Receiver was not a party to the Lease, the Receiver "stands in the shoes" of 700 Hennepin and, accordingly, the arbitration provision in the Lease applies to the dispute between the Receiver and Seven. *Id.* (citations omitted) (internal quotation marks omitted). The court of appeals also rejected the Receiver's argument that, even if the Receiver is subject to the arbitration provision in the Lease, the arbitration provision does not apply to the Receiver's claim for unpaid rent. *Id.* at 758. The court of appeals ultimately concluded that the district court erred in not sending the dispute to arbitration and reversed and remanded.[2] *Id.*

ANALYSIS

The question before us is whether a court-appointed receiver is subject to a lease agreement provision that compels the parties to the lease to submit a disputed rent claim to arbitration. Resolution of this question requires us to interpret Minnesota statutes and the Lease. Our review is de novo. *See Buzzell v. Walz*, 974 N.W.2d 256, 261 (Minn. 2022) (stating that questions of statutory interpretation are reviewed de novo); *Metro. Airports Comm'n v. Noble*, 763 N.W.2d 639, 643 (Minn. 2009) (stating that we review interpretation of a lease de novo).

[2] Because the court of appeals reversed the Receivership Judge's findings, it did not reach the issue of Seven's recoupment defense. *Wilmington Tr.*, 971 N.W.2d at 758 n.5.

I.

The Receiver's position is that, once a district court exercises its authority to appoint a receiver, the district court is no longer bound to enforce the terms of an arbitration provision in a contract between the person over whose property the receiver is appointed and another party to that contract. The practical result of the Receiver's argument is that the district court can ignore the contractual rights of the other party to the contract.

Resolution of that question requires us to interpret the 2012 Receivership Act. The Legislature enacted the statute against the background of Minnesota's prior law. Accordingly, before we reach the statutory language that forms the basis for our analysis, a brief background on Minnesota's law of receivership is important.

A.

At common law, a receivership was not a cause of action or an independent remedy, but rather an equitable power of a court ancillary to the main cause of action.[3] *See* 40 Dunnell Minn. Digest, *Receivers* § 1.01 n.563 (5th ed. 2011) (collecting cases) (Dunnell); *see also Aaron Carlson Corp. v. Cohen*, 933 N.W.2d 63, 68 (Minn. 2019) (stating that a court of equity makes the appointment of a receiver). Courts have historically appointed receivers when the court deems it necessary to protect and preserve the property involved in the underlying litigation (including situations as here where a

[3] This is no longer true under the Receivership Act, which allows appointment of a receiver "whether or not the motion for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment." Minn. Stat. § 576.25, subd. 1. The scope of this change does not matter here because Wilmington Trust included its request for a receiver in its breach of promissory note and foreclosure case.

mortgage authorizes the appointment of a receiver under certain circumstances). *See* 75 C.J.S. *Receivers* § 4 (2019); *see, e.g.*, Minn. Rev. Laws § 4262 (1905) (renumbered as Minn. Stat. § 576.01 (2010) (repealed 2012)); *Mut. Ben. Life Ins. Co. v. Frantz Klodt & Son, Inc.*, 237 N.W.2d 350, 352 (Minn. 1975).

Among other things, under existing law, a court may appoint a receiver "to do the physical work in connection with taking possession and preserving the property . . . ." *Sibley Cnty. Bank of Henderson v. Crescent Mill. Co.*, 201 N.W. 618, 619 (Minn. 1925). "A receiver is an officer or representative of the court, and is subject to its control. His possession is the possession of the court." *Peterson v. Darelius*, 210 N.W. 38, 39 (Minn. 1926). Receivers only have the power that the court grants to them and, of course, the court can only grant receivers power that it has. *See Ueland v. Haugan*, 73 N.W. 169, 169–70 (Minn. 1897).

In authorizing a receivership, the district court essentially takes away control of the property at issue from the owner of the property. The court then exercises control over the property itself. The property is *in custodia legis*—"in the custody of the law." *In Custodia Legis*, *Black's Law Dictionary* (9th ed. 2009); *see Sibley Cnty. Bank of Henderson*, 201 N.W. at 619 ("A receiver is the representative of the court. The property in his possession is in custodia legis."). But the court takes the property of the owner of the receivership property subject to any existing burden or encumbrance of the owner. Dunnell, § 1.02; *see Magnusson v. Am. Allied Ins. Co.*, 189 N.W.2d 28, 33 (Minn. 1971) (" '[T]he general rule undoubtedly is that the receiver of an insolvent corporation has no greater rights than those possessed by the corporation itself' " (quoting *German-Am. Fin.*

Corp. v. Merch.s' State Bank, 225 N.W. 891, 893 (Minn. 1929))). For instance, the general rule at common law is that, when a receiver brings an action to recover property from a another, the receiver "stands in the shoes of the [owner whose property is the subject of the receivership] as regards the defenses, setoffs and counterclaims" of a party whom the receiver has brought a claim against. Dunnell, § 4.00(d) n.943 (collecting cases).

At common law, then, when a court establishes a receivership, it takes control of the property from the owner of the property to protect and to preserve the property. The court takes the property subject to the rights and duties of the owners of the property—no more and no less. The court may appoint a receiver to exercise whatever authority the court has (or some subset of that power) over the property. Under established Minnesota law as it existed when the Receivership Act was enacted, the Receiver's argument that the district court can ignore Seven's contractual right to have the rent dispute determined by an arbitrator would fail. *See Peterson*, 210 N.W. at 39; *Ueland*, 73 N.W. at 169–70.

B.

The Receiver, however, asserts that the law is different under the 2012 Receivership Act, Minnesota Statutes chapter 576. But the 2012 Receivership Act makes clear that the default rule is that the pre-existing law applies. The text expressly provides that "[u]nless *explicitly* displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter." Minn. Stat. § 576.22(d) (emphasis added). This is consistent with the reason for the Legislature's enactment of the Receivership Act in 2012 at the urging of the Minnesota

State Bar Association.[4] Noting that while receiverships existed under Minnesota law for generations, bar association spokesperson Jim Baillie explained the motivation behind the law:

> We felt there [is] a need to lay out a comprehensive discussion of how to go about receiverships in Minnesota for the guidance of the courts and the parties without an intention of making any changes, or at least not any dramatic changes, in the actual practice but to get them written down so that this is not a matter of lore or custom or tradition which is not known many times by many of the people who may be involved in the process.

Hearing on H.F. 382, H. Comm. Civ. L., 87th Minn. Leg., Feb. 14, 2011 (audio tape) (comments of James L. Baillie); *see* James L. Baillie, *Proposed Comprehensive Receivership and ABC Statute*, *Hot Issues in Debtor-Creditor Practice*, MSBA CLE (Nov. 17, 2010) (attaching the October 11, 2010, Report of MSBA Sections of Business Law and Real Property Law on Proposed Minnesota Statutes Addressing Receiverships and Assignments for the Benefit of Creditors (MSBA Report)).

The Receiver relies heavily on section 576.23 to support the argument that he is not subject to the arbitration provision in the Lease agreement. Section 576.23 provides:

> The court has the exclusive authority to direct the receiver and the authority over all receivership property wherever located including, without limitation, authority to determine all controversies relating to the collection, preservation, improvement, disposition, and distribution of receivership property, and all matters otherwise arising in or relating to the receivership, the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

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[4] With the exception of technical changes to correct drafting errors and an amendment to a provision requiring utilities to give certain notices to receivers, the Receivership Act, Minn. Stat. ch. 576, passed through committees, both bodies of the Legislature, and the conference committee in the form initially introduced by the Minnesota State Bar Association.

Minn. Stat. § 576.23. The Receiver argues that because the statute gives the district court "exclusive authority" to direct the Receiver and "authority" over all receivership property, including the authority to "determine all controversies" related to the collection of receivership property, the district court is not required to submit disputes under the Lease to the arbitrator. We do not agree that section 576.23 says that.

Section 576.23 captures in statute the accepted legal principles that a receiver can only act as empowered by the district court and answers to nobody but the district court. It is the district court that has control over the receivership property. *See Sibley Cnty. Bank of Henderson*, 201 N.W at 619 ("A receiver is the representative of the court. The property in his possession is in custodia legis."); *Greenfield v. Hill City Land, Loan & Lumber Co.*, 170 N.W. 343, 344 (Minn. 1919) ("A receiver is in law the arm of the court. He is in duty bound to execute the court's orders."); MSBA Report at 4 (stating that the statute "makes clear that a receiver, having been appointed by the court, is an officer of the court and reports only to the court [and t]he receiver is not under the direction of any party, including the party that may have obtained the appointment of the receiver.").[5]

If the Legislature intended that a statute which expressly preserves preexisting common law and statutory rights (and is generally designed to codify the common law) also empowers a district court (in contravention of the prior law) to ignore the contractual

[5] Section 576.29 sets forth the general powers of a receiver "in addition to those specifically conferred by [Chapter 576] or otherwise by statute, rule, or order of the court." Minn. Stat. § 576.29, subd. 1(a). The same section provides that a receiver "shall have the duties specifically conferred by [Chapter 576] or otherwise by statute, rule, or order of the court." *Id.*, subd. 2. Section 576.39 allows the receiver to sue "in the receiver's capacity." Minn. Stat. § 576.39, subd. 1.

rights of a party who entered into an agreement with the person over whose property the receiver is appointed, including the contractual right to arbitration, one would expect the Legislature to say that directly. *See Buzzell*, 974 N.W.2d at 265 (rejecting a statutory interpretation argument on the basis that, had the Legislature intended a particular meaning, it would have chosen a more direct textual path). The Legislature did not do so in section 576.23. The Receiver's suggestion that the statute's references to "exclusive authority" and "authority to determine all controversies relating to the collection . . . of receivership property" means that *only* the district court can determine if Seven must pay back rent to the Receiver stretches the statutory language too far. *See* Minn. Stat. § 576.23.

We reject the Receiver's argument for several reasons. First, section 576.23 does not state that the district court has "exclusive authority" to determine all controversies related to the collection of receivership property. Rather, the statute only grants the district court "exclusive authority to direct the receiver." Minn. Stat. § 576.23. Second, even the Receiver admits that one way a district court may exercise its authority to determine a controversy related to the collection of receivership property is to refer the dispute to an arbitrator. That argument runs contrary to the Receiver's position that the statute means the district court *alone* may decide the controversy.

The Receiver's argument that the Receivership Act authorizes the district court to ignore the arbitration provision in the Lease is also undermined by the fact that the Receivership Act has a provision that directly and specifically addresses how executory

contracts like the Lease in this case are to be handled in receivership.[6] Section 576.45, subdivision 1, provides:

> Unless a court orders otherwise, a receiver succeeds to all of the rights and duties of the [person over whose property the receiver is appointed] under any executory contract. The court may condition the continued performance by the receiver on terms that are appropriate under the circumstances.

Minn. Stat. § 576.45, subd. 1. By its plain terms and consistent with the common law, the statute tells us that a receiver must abide by all the terms of an executory contract between the person over whose property the receiver is appointed and another party.[7] And this direction makes common sense. The only basis for the Receiver's claim that Seven must pay rent is the Lease. Without the Lease, the Receiver has no claim on Seven.

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[6] Minn. Stat. § 576.21(d) defines executory contract to mean "a contract, *including a lease*, where the obligations of both the [person over whose property the receiver is appointed] and the other party to the contract are unperformed to the extent that the failure of either party to complete performance of its obligations would constitute a material breach of the contract, thereby excusing the other party's performance of its obligations under the contract." (Emphasis added.) No party asserts that the lease is not an executory contract for purposes of the Receivership Act.

[7] The conclusion that the rights of parties to executory contracts cannot be disregarded by the Receiver is reinforced by other subdivisions of section 576.45. Subdivision 2 provides that "[f]or good cause, the court may authorize a receiver to assign and delegate an executory contract to a third party *under the same circumstances and under the same conditions as the* [*person over whose property the receiver is appointed*] *was permitted to do so pursuant to the terms of the executory contract* and applicable law immediately before the time of appointment." Minn. Stat. § 576.45, subd. 2 (emphasis added). Subdivision 3 empowers the court to authorize the receiver to terminate an executory contract but also provides that "the termination shall create a claim equal to the damages, if any, for breach of the contract as if the breach of contract had occurred immediately before the time of appointment." Minn. Stat. § 576.45, subd. 3. This damages provision supports the conclusion that the rights of the parties to the contract continue after the appointment of the receiver.

Accordingly, it makes sense that the provisions of the same Lease relating to how disputes over unpaid rent are to be resolved—part of the bargain that the parties struck—also apply.[8]

While not generally disputing that reading of section 576.45, subdivision 1, the Receiver argues that the proviso "[u]nless a court orders otherwise" governs this case. We are not convinced that the proviso broadly authorizes a district court to direct a receiver to ignore its obligations under an executory contract while at the same time seeking to enforce favorable provisions. An equally likely (if not more likely) interpretation is that the district court may place limitations on the power of a receiver to act on certain provisions of a contract.[9]

And even if the "[u]nless a court orders otherwise" proviso allows a district court to free a receiver from duties of the person over whose property the receiver is appointed under an executory contract, the district court appointment order failed to provide that the

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[8] It is worth observing that the Receiver was appointed in a mortgage foreclosure action. This is not a bankruptcy action in which different rules regarding the rights of other parties to a contract may apply. The committee that drafted the statute specifically took a cautious approach, deciding to hew closely to existing state law and practice and to refrain from giving the receiver broad, extraordinary powers of a federal bankruptcy trustee. MSBA Report at 4.

[9] The Receiver also suggests that the provision in section 576.45, subdivision 1, stating that a "court may condition the continued performance by the receiver on terms that are appropriate under the circumstances" authorizes the district court to relieve the Receiver of his duty to arbitrate the claim for disputed rent. Minn. Stat. § 576.45, subd. 1. We disagree. The court has discretion to impose appropriate conditions on a receiver's performance only within the general parameters set forth in the statute. Any other conclusion would create from this single sentence a power in district courts that would swallow the entire statute. Because the Receiver succeeds to the rights and duties of 700 Hennepin, which includes succeeding to the arbitration clause, it is not "appropriate" for the court to condition continued performance on the Receiver refusing to abide by a provision of the lease.

Receiver was not subject to the duties of 700 Hennepin to Seven under the Lease. The Receiver claims that because the district court authorized the Receiver to enforce the Lease and collect rents, but failed to affirmatively state that the Receiver was bound by the duty to go to arbitration, the district court somehow "order[ed] otherwise" that the Receiver does not need to go to arbitration.

We reject this argument. The presumption under the language of section 576.45, subdivision 1, is that the Receiver is subject to the rights and duties of 700 Hennepin. Accordingly, the absence of a provision affirmatively requiring the Receiver to honor duties in the Lease is not equivalent to an affirmative statement that the Receiver does not have to abide by duties in the Lease.[10]

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[10] The Receiver makes several other statutory arguments. He argues that he is not subject to arbitration because the receivership order, in line with section 576.39, states, "Unless applicable law requires otherwise or the court orders otherwise, an action by or against the receiver or relating to the receivership or receivership property shall be commenced in the court and assigned to the judge before whom the receivership is pending." Minn. Stat. § 576.39, subd. 2. This provision is not as expansive as the Receiver claims. Section 576.39, subdivision 2, is a venue provision that imposes the practical requirement that the judge who appointed the receiver also be assigned to preside over disputes involving the receiver or receivership property. It does not say that the judge may disregard lease provisions requiring resolution of certain controversies by arbitration; rather, section 576.39, subdivision 2, only means that the judge who appointed the receiver—and not some other judge—is the one who should determine (in accordance with the Receivership Act and relevant common law) whether the lease provisions require referral to an arbitrator. And section 576.39, subdivision 2, starts with a proviso stating that the venue provision does not apply if "applicable law requires otherwise or the court orders otherwise." Minn. Stat. § 576.39, subd. 2. Indeed, as noted, the Receiver acknowledges that the district court had the authority to refer this rent dispute to the arbitrator.

The Receiver also contends that because the receivership order grants the power to collect rents based on its power under Minn. Stat. § 576.25, subd. 5(d), then it cannot be compelled to arbitrate the claim. Although it is true that the statute gives the Receiver the express power to collect rents in mortgage foreclosure cases, it does not follow that the

Our conclusion is consistent with decisions of courts in other jurisdictions. In *Javitch v. First Union Securities, Inc.*, the court held that the receiver—who was bringing claims on behalf of two entities—was bound to the arbitration agreements to the same extent that the receivership entities would have been bound absent the appointment of the receiver. 315 F.3d 619, 625–27 (6th Cir. 2003). Similarly, in *Medeiros Revocable Trust v. Morgan Stanley Smith Barney LLC*, the Oklahoma Court of Civil Appeals held that a receiver was compelled to arbitrate a claim based on a contractual provision, explaining that "[a] receiver's claims are subject to the claims and defenses possessed by all interested parties." 446 P.3d 533, 536–37 (Okla. Civ. App. 2019).[11]

Further, in *China Media Express Holdings, Inc. v. Nexus Executive Risks, Ltd.*, the court appointed a receiver to serve as China Media Express's (CME) receiver "for the limited purpose of marshaling CME's assets," which "include[ed] the filing of litigation or arbitration that may be necessary to enforce CME's rights under [its] insurance policies." 182 F. Supp. 3d 42, 45, 50–52 (S.D.N.Y. 2016) (alteration in original) (citation omitted) (internal quotation marks omitted). The receiver argued that the district court's equitable

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district court is the *only* person that can resolve disputes over rent collection or that the district court is not allowed to refer the case to arbitration.

[11] The Receiver and dissent argue that we should not consider *Medeiros Revocable Trust*, 446 P.3d at 537, because Oklahoma does not have a statute delegating "exclusive authority" to the district court. We disagree. Although the statutory language is not identical to Minnesota's statute, *Medeiros* interprets the language to affirm the broader principle that receivership courts cannot simply ignore the rights of other parties to the contract. On that ground, the case is persuasive. Further, as noted above, the "exclusive authority" in Minn. Stat. § 576.23 relates to the district court's power to direct the receiver, and the "authority over all receivership property" is subject to the more specific provisions of Chapter 576.

powers over the receivership assets permitted the district court to exercise control over any claims brought against those assets. *Id.* at 52. The court, however, held that because "CME is bound by the arbitration agreements in the insurance policies, the Receiver, too, is limited to those contracted-upon forms of dispute resolution." *Id.* Here too the Receiver is limited by its contractual obligation to arbitrate a claim over rent due.

Finally, the Receiver argues that he is not bound by the arbitration provision because he was appointed as a "limited receiver" as opposed to a "general receiver." The Receiver contends that because, as a limited receiver, he has authority over the Building alone—and not over all of the property of 700 Hennepin as in a general receivership—he does not completely step into the shoes of 700 Hennepin. Thus, the Receiver reasons, as a limited receiver, he is a distinct entity from 700 Hennepin and, accordingly, not bound by the contractual obligations of 700 Hennepin.

We disagree. It is true that the Receivership Act distinguishes limited and general receiverships. In a general receivership, the receiver is appointed "over all or substantially all of the nonexempt property of a respondent for the purpose of liquidation and distribution to creditors and other parties in interest," Minn. Stat. § 576.21(h), whereas a limited receivership includes all receiverships "other than a general receivership," Minn. Stat. § 576.21(k). In both types of receiverships, the receiver is appointed over the *property* of the person; the distinction is whether the receiver is appointed over all of the property or just some of the property. The distinction is *not* that a general receiver somehow becomes the person over whose property the receiver is appointed and a limited receiver does not. And, in this case, the Lease under which Seven's obligation to pay rent arises and which

includes the arbitration provision at the heart of this case relates directly to the Building, the property that is the subject of the limited receivership. Moreover, the general directive in section 576.45, subdivision 1, that "a receiver succeeds to all of the rights and duties of the [person over whose property the receiver is appointed] under any executory contract" does not distinguish between general and limited receivers. *See* Minn. Stat. § 576.45, subd. 1.

In sum, we hold that under the Receivership Act (and consistent with prior law), because a receiver stands in the shoes of the person over whose property the receiver is appointed—including that person's duties under a lease—a receiver is bound by an arbitration provision in a lease agreement between the person whose property the receiver is appointed and the other party to the lease.

II.

The Receiver also asserts that, even if the Receivership Act does not allow the district court to ignore the arbitration provision in the Lease, his unpaid rent claim in this case is not subject to the arbitration provision in the Lease as a matter of contract interpretation. The Receiver claims that "only issues of [lease] termination are subject to arbitration" and he is not seeking to terminate the Lease. We also disagree with this argument. "Determining whether a party has agreed to arbitrate a particular dispute is a matter of contract interpretation." *Johnson v. Piper Jaffray, Inc.*, 530 N.W.2d 790, 795 (Minn. 1995). Any doubts regarding the scope of the contract should be decided in favor of arbitration. *Id.*

Once again, the relevant portions of the Lease are as follows:

> 35. TENANT DEFAULT. Any of the following shall constitute a "Tenant Default" for purposes of this Lease: (a) Tenant shall fail to pay any installment of any amount payable by Tenant to Landlord hereunder, or any portion thereof within ten (10) days when the same shall be due and payable . . . .
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> 36. REMEDIES OF LANDLORD. Upon the occurrence of a Tenant Default, Landlord may elect either: (i) to cancel and terminate this Lease, and this Lease shall not be treated as an asset of Tenant's estate, or (ii) to terminate Tenant's right to possession only without terminating this Lease.
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> Notwithstanding the foregoing to the contrary, in the event that Tenant, on or before the expiration of any applicable grace period set forth in Paragraph 35, provides notice to Landlord that Tenant in good faith disputes that a Tenant Default exists, Landlord shall not exercise any of its remedies provided herein but shall, as its sole remedy, submit such dispute to binding arbitration to be conducted under the arbitration provisions as set forth in this Lease.
>
> . . . .
>
> No right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy herein or by law provided but each shall be cumulative and in addition to every other right given herein or now or hereafter existing at law or in equity or by statute.

The Lease provision does not limit the arbitration requirement to circumstances when the landlord is attempting to cancel or terminate the Lease or terminate the tenant's right to possession. The Lease includes specific rules that allow the landlord to make a choice between canceling and terminating the Lease and terminating possession without terminating the Lease, but it also preserves all other remedies of the landlord. And section 36 provides that if the landlord is pursuing "any of its remedies" (which again expressly includes those beyond the termination and cancellation remedies provided in the Lease) due to a tenant default, and the tenant disputes in good faith whether it has breached the Lease, the sole remedy available to the landlord is to submit the dispute to binding

arbitration. The landlord "shall not exercise *any* of its remedies provided herein." (Emphasis added.) No one contends that Seven did not act in good faith here when it disputed whether it breached the Lease. Accordingly, the parties must submit to arbitration the dispute over whether Seven owes and must pay unpaid rent under the Lease. And even if there was some doubt about that reading, that doubt should be resolved in favor of arbitration. *See Johnson*, 530 N.W.2d at 795.[12]

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

[12] The Receiver makes other arguments related to the Lease. First, he contends that because he never personally agreed to arbitrate any disputes with Seven, then he is not compelled to arbitrate this claim. Because we hold that the Receiver is subject to the rights and duties of 700 Hennepin, we reject this argument. Second, the Receiver argues that because Seven at times has not claimed that the Receiver is bound by other non-arbitration duties of 700 Hennepin, then he is not bound by the arbitration clause. The circumstances involving those other provisions are not before us in this case.

D I S S E N T

McKEIG, Justice (dissenting).

The court concludes that the Receiver appointed in this case is bound to a contractual provision to arbitrate contained in a lease between 700 Hennepin Holdings, LLC (700 Hennepin) and tenant Seven Acquisition, LLC (Seven). Because I read Minn. Stat. § 576.23 (2022) as conferring absolute authority on the district court to determine all controversies related to receivership property, I respectfully dissent.

The majority immediately jumps to a discussion of the common law approach to receivership. *Supra* at 8–10. But the question in this case of whether the Receiver is required to arbitrate is ultimately one of statutory interpretation, where our goal is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2022). We construe words and phrases in the statute "according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2022). Where words are not given a statutory definition, we may turn to dictionary definitions to determine the ordinary meaning of the terms. *State v. McReynolds*, 973 N.W.2d 314, 318 (Minn. 2022). And where the plain text of a statute is clear and unambiguous, this court is bound to enforce the plain language of the statute. *Id.*

The plain text of Minn. Stat. § 576.23 is both clear and unambiguous:

> The court has the *exclusive* authority to direct the receiver and the authority over all receivership property . . . including, *without limitation*, authority to determine *all* controversies relating to the collection, preservation, improvement, disposition, and distribution of receivership property, and *all* matters otherwise arising in or relating to the receivership, the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

Minn. Stat. § 576.23 (emphasis added). "Exclusive" means "limiting or limited to possession, control, or use, by a single individual or group." *Merriam-Webster's Collegiate Dictionary* 404 (10th ed. 2001). Without "limitation" means without "something that limits; RESTRAINT." *Id.* at 674. "All" means "the whole amount or quantity of." *Id.* at 29. Nowhere does Minn. Stat. § 576.23 suggest that this exclusive, limitless authority will somehow give way to an obligation to arbitrate contained in a lease.

Yet the court concludes exactly that. The majority has determined that an arbitration clause in the contract between the landlord and tenant overrides the explicit statutory authorization for the district court to decide "all controversies" arising over receivership property. *Supra* at 20; *see* Minn. Stat. § 576.23. To reach this conclusion, they point to another part of the Receivership Act, Minnesota Statutes § 576.45, as evidence that a receiver is bound to all the terms of an executory contract. *Supra* at 13–14. Section 576.45, subdivision 1, states that:

> Unless a court orders otherwise, a receiver succeeds to all of the rights and duties of the [person over whose property the receiver is appointed] under any executory contract. The court may condition the continued performance by the receiver on terms that are appropriate under the circumstances.

Minn. Stat. § 576.45, subd. 1 (2022). The majority claims that this subdivision "tells us that a receiver must abide by all the terms of an executory contract between the person over whose property the receiver is appointed and another party." *Supra* at 14. I agree with this conclusion, to an extent. A receiver is bound to the terms in an executory contract, *so long*

as those terms do not conflict with statute.[1] *Lee v. Fresenius Med. Care, Inc.*, 741 N.W.2d 117, 123 (Minn. 2007) (stating that contract provisions must not conflict with a statute); *Am. Fam. Mut. Ins. Co. v. Ryan*, 330 N.W.2d 113, 115 (Minn. 1983) (providing that parties may contract as they desire so long as the contract does not "contravene applicable statutes"). The arbitration provision in the lease at issue here creates a sole mechanism for resolving disputes, which directly conflicts with the sole mechanism for resolving disputes explicitly stated in Minn. Stat. § 576.23.[2] In this circumstance, the statute controls over the contract.

The majority disagrees with this analysis, claiming that if the statute had intended on contravening the common law by permitting the district court "to ignore the contractual rights of a party who entered into an agreement with the person over whose property the receiver is appointed, including the contractual right to arbitration" that the Legislature would have done so more directly. *Supra* at 12–13. They also point to the Receivership

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[1] The Lease itself recognizes the authority of Minnesota law, providing that "This Lease shall be subject to and governed by the laws of the State of Minnesota."

[2] This distinction is especially notable when considering the cases from other jurisdictions cited by the majority as further support for their conclusions. *Supra* at 17–18. Though the Oklahoma Court of Civil Appeals held that a receiver was compelled to arbitrate based on a contractual provision, no similar statutory language giving the district court "exclusive authority" to resolve disputes exists under Oklahoma law. *Medeiros Revocable Tr. v. Morgan Stanley Smith Barney LLC*, 446 P.3d 533, 536–37 (Okla. Civ. App. 2019). Furthermore, the two federal cases cited, *Javitch v. First Union Sec., Inc.*, and *China Media Express Holdings, Inc. v. Nexus Exec. Risks, Ltd.*, both reiterate the federal policy "favoring arbitration agreements," and use the common law language of parties standing in the shoes of the entity in receivership. 315 F.3d 619, 624, 625 (6th Cir. 2003); 182 F. Supp. 3d 42, 48, 52 (S.D.N.Y. 2016). None of these cases therefore address a situation where the common law directly conflicts with a statute.

Act, which provides that "[u]nless explicitly displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter." Minn. Stat. § 576.22(d) (2022); *supra* at 10. But the statutory language in section 576.23 giving the district court "exclusive authority" "without limitation" "to determine all controversies relating to the collection . . . of receivership property," is both direct and explicit. *See Imlay v. City of Lake Crystal*, 453 N.W.2d 326, 331 (Minn. 1990) (holding that a statute abrogated a plaintiff's common law right). Conversely, if the Legislature intended to create exceptions for this broad, sweeping grant of authority, it would have said so. *See Genin v. 1996 Mercury Marquis*, 622 N.W.2d 114, 117 (Minn. 2001) ("The rules of construction forbid adding words or meaning to a statute that were intentionally or inadvertently left out.").

This certainly does not mean that every clause within the contract is somehow void or may simply be ignored by the district court, as the majority suggests. *See supra* at 12–13. It simply means that, because the plain text of Minn. Stat. § 576.23 conflicts with the requirement within the contract to arbitrate, the district court, and by extension the receiver, is not bound to arbitrate. The district court may refer the dispute to an arbitrator, but it does so based on a delegation of the authority it possesses to decide all controversies over receivership property. This does not undermine the statutory grant of "exclusive authority," but rather reaffirms that the district court retains the ultimate power to determine how disputes are resolved.

For the foregoing reasons, I respectfully dissent.

GILDEA, Chief Justice (dissenting).

I join the dissent of Justice McKeig.