STATE OF MINNESOTA
IN COURT OF APPEALS
A17-0831

The County of Hennepin by
Hennepin County Attorney Michael Freeman,
Respondent,

vs.

6131 Colfax Lane, Minneapolis, Minnesota,
Defendant,

Sandra Hart,
Appellant.

Filed January 29, 2018
Reversed
Ross, Judge

Hennepin County District Court
File No. 27-CV-HC-16-5725

Michael O. Freeman, Hennepin County Attorney, Deborah L. Russell, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Jonathan L. R. Drewes, Caitlin Guilford, Drewes Law, PLLC, Minneapolis, Minnesota (for appellant)

Considered and decided by Johnson, Presiding Judge; Peterson, Judge; and Ross, Judge.

S Y L L A B U S

The housing-calendar program, also known as the housing court, lacks authority under Minnesota Statutes section 484.013, subdivision 1(a) (2016), to hear and determine any matter unrelated to "residential rental housing."

O P I N I O N

ROSS, Judge

Hennepin County informed Sandra Hart by letter that drug and prostitution activity in or around her Minneapolis home constituted a public nuisance. The county later petitioned the Hennepin County Housing Court to permanently enjoin the offending conduct and prohibit Hart or anyone else from using the property. Thirty minutes into the scheduled hearing on the petition, the housing court found Hart to be in default for failing to appear, and, after she arrived an hour later, the housing court said she was too late to participate in the then-ongoing proceeding. Hart unsuccessfully sought postjudgment relief, and she appeals. Because the statute instituting the housing court specifies that it is established to render "determination[s] of matters related to residential rental housing" and Hart's home is not residential rental housing, the housing court lacked subject-matter authority to hear and determine the county's nuisance petition, and we reverse.

FACTS

An attorney representing Hennepin County sent Sandra Hart a notice of nuisance informing her that neighbors reported drug and prostitution activity in or near her Minneapolis home. The letter said that Hart's property constituted a "public nuisance" and warned that she had 30 days to abate. The county later filed a petition in the Hennepin County Housing Court, alleging that Hart failed to end the offending conduct and asking the housing court to order, among other things, that Hart must "evict all tenants" and that neither she nor anyone else could occupy the property for one year. The housing court scheduled a hearing.

Hart telephoned the housing court about 20 minutes before the hearing was set to begin, saying that she was going to be late. She called again 30 minutes later and said that she was still waiting for a taxi. Thirty minutes after the scheduled commencement, the housing court began the hearing, announced that Hart was in default for failing to appear, and invited the county to present witnesses. About an hour into the hearing as the county attorney was examining the county's ninth witness, Hart arrived. She tried to cross-examine the witness, but the housing-court referee informed her that she was too late and that the court already found her in default. The referee recommended the entry of a default judgment and that Hart must vacate her home for one year, and a district court judge co-signed the recommendation as an order. Hart moved the housing court to vacate the judgment under Minnesota Rule of Civil Procedure 60.02 (2016), and the housing-court referee recommended denying the motion in a document also co-signed by the district court judge as an order. Hart appeals.

ISSUE

Did the housing court have the statutory authority to hear and determine the county's petition to enjoin an owner from occupying her home, which does not constitute residential rental housing?

ANALYSIS

Hart argues that the legislature limited the housing court's jurisdiction to matters related to "residential rental housing" and that, because she owned and occupied her home and did not rent it to others, it was not "rental housing" under the housing court's subject-matter jurisdiction. The county argues that the housing court's jurisdiction is not restricted

to rental-housing matters. Our answer to the parties' dispute turns on how we interpret the housing-court statute's first and second subdivisions, a task we undertake de novo. *See Nelson v. Nelson*, 866 N.W.2d 901, 903 (Minn. 2015). Those subdivisions read as follows:

> Subdivision. 1. **Establishment.** (a) A program is established in the Second and Fourth Judicial Districts to consolidate the hearing and determination of matters related to residential rental housing and to ensure continuity and consistency in the disposition of cases.
>
> . . . .
>
> Subd. 2. **Jurisdiction.** The housing calendar program may consolidate the hearing and determination of all proceedings under chapter 504B; criminal and civil proceedings related to violations of any state, county or city health, safety, housing, building, fire prevention or housing maintenance code; escrow of rent proceedings; and actions for rent abatement. A proceeding under sections 504B.281 to 504B.371 may not be delayed because of the consolidation of matters under the housing calendar program.
>
> . . . .

Minn. Stat. § 484.013 (2016).

The parties frame the issue as one of "jurisdiction." But the housing court has no power independent of the district court, and it is not really its "subject matter jurisdiction" that is at stake, despite the language used by the legislature. "Jurisdiction refers to a court's power to hear and decide disputes." *McCullough & Sons, Inc. v. City of Vadnais Heights*, 883 N.W.2d 580, 584–85 (Minn. 2016) (quotation omitted) (correcting this court's understanding of subject matter jurisdiction as contrasted with claim-processing rules). We believe it is more accurate to refer to the housing court's "authority" than to its

"jurisdiction." And the record establishes that the question presented to the district court was framed alternatively as the housing court's "authority" and its "jurisdiction."

The county argues for a very broad interpretation of the housing court's authority by directing us to the second subdivision, which is headed by the title, "Jurisdiction," in boldface type. We observe that the subdivision title carries little weight. The legislature has told us that "[t]he headnotes printed in boldface type before sections and subdivisions in editions of Minnesota Statutes are mere catchwords to indicate the contents . . . and are not part of the statute." Minn. Stat. § 645.49 (2016). Although the headnotes are not part of the statute, the arrangement is. And we should not read statutory provisions in isolation but rather in the context of the whole statute. *See Am. Family Ins. Group. v. Schroedl*, 616 N.W.2d 273, 277–78 (Minn. 2000). We therefore begin our analysis with the first subdivision, and we read the two subdivisions together.

The first subdivision informs us that the legislature established the housing court specifically "to consolidate the hearing and determination of matters related to residential rental housing and to ensure continuity and consistency in the disposition of cases." The language is plain, understandable, and unambiguous. We would "disregard the plain language of a statute only where the legislative purpose was clear and the plain meaning would utterly confound that purpose." *Mut. Serv. Cas. Ins. Co. v. League of Minn. Cities Ins. Trust*, 659 N.W.2d 755, 762 (Minn. 2003). Even if the language were unclear and called for construction, the result would be the same. We would look to the interpretive canon, *expressio unius est exclusio alterius*, which informs us that the inclusion of some items in a statute implies the exclusion of all unstated items. *State v. Caldwell*, 803 N.W.2d

373, 383 (Minn. 2011). That the legislature established the housing court for the express purpose of "hearing and determining . . . matters related to residential rental housing" without listing any other area is, we think, a clear indication that the housing court's authority reaches only matters related to residential rental housing.

The county suggests that the second subdivision extends the reach of the housing court's authority by adding to, rather than detailing or defining, the class of cases "related to residential rental housing" in subdivision 1. The suggestion is not convincing. The second subdivision allows the housing court to "consolidate the hearing and determination of" four categories of cases. Three of those categories most obviously relate to rental property, supporting our view that the legislature intended the housing court to hear and decide only those cases related to residential rental housing. One of those categories is "all proceedings under chapter 504B." Chapter 504B mostly addresses duties and rights in the landlord-tenant relationship. Another category is "escrow of rent proceedings." Minn. Stat. § 484.013, subd. 2. Again, this deals with landlord-tenant disputes. And a third category likewise fits the apparent restriction, dealing with "actions for rent abatement."[1] The only

[1] The second paragraph of section 484.013, subdivision 2, likewise focuses only on rental property:

> The program must provide for the consolidation of landlord-tenant damage actions and actions for rent at the request of either party. A court may not consolidate claims unless the plaintiff has met the applicable jurisdictional and procedural requirements for each cause of action. A request for consolidation of claims by the plaintiff does not require mandatory joinder of defendant's claims, and a defendant is not barred from raising those claims at another time or forum.

category in the second subdivision that does not specifically refer to a rental arrangement is the broad category of "criminal and civil proceedings related to violations of any state, county or city health, safety, housing, building, fire prevention or housing maintenance code." This is the category that the county relies on for the housing court's authority here.

We think the county asks far too much of this provision. For starters, if the county is correct that this provision of subdivision 2 expands rather than defines the class of housing-court cases described in subdivision 1, then the primary phrase in subdivision 1—"to consolidate the hearing and determination of matters related to residential rental housing"—would be entirely meaningless. We could therefore agree with the county's interpretation only by disregarding the adage that "[a] statute should be interpreted, whenever possible, to give effect to all of its provisions; no word, phrase, or sentence should be deemed superfluous, void, or insignificant." *Am. Family Ins. Grp.*, 616 N.W.2d at 277 (quotation omitted).

We see another problem with broadly interpreting the housing court's authority to "hear[] and determin[e]" *any* "criminal and civil proceedings related to violations of any state, county or city health, safety, housing, building, fire prevention or housing maintenance code." If, as the county maintains, this provision in subdivision 2 independently confers housing-court authority to matters outside the residential-rental-housing umbrella, the housing court's authority would, to say the least, be expansive. The housing court could, for example, "hear[] and determin[e]" any "criminal proceeding" having nothing to do with housing or even with buildings so long as the proceeding is "related to violations of" a state statute that protects "health" or "safety." This would

seemingly include murder, incest, rape, robbery, terrorism, and drunk-driving trials. Can the county prosecute shootings and drug dealing in housing court even when the alleged offenses occurred entirely on public streets? Can the housing court "hear[] and determin[e]" a lawsuit involving claims that workplace sexual harassment occurred at a privately owned restaurant because the trial qualifies as a "civil proceeding" that is "related to violations of" state law designed to foster personal "safety"? Could it enjoin a food manufacturer's operation in a suit driven by alleged health-code concerns? The county's construction of the statute would say so. Indeed, when asked at oral argument, counsel for the county believed "the housing court may have jurisdiction over" a nuisance lawsuit by a commercial-office-building owner seeking an order enjoining the Twins from playing night games at Target Field. We are confident that section 484.013 is less empowering.

We conclude that the classes of cases referred to in subdivision 2 are instead constrained by the limiting language of subdivision 1. That is, the matters that the housing court may "hear[] and determin[e]" are matters that *generally* are "related to residential rental housing" and that also *specifically* fall within one of the four categories of subdivision 2.

We are not persuaded otherwise by the county's reliance on our statement in *Bass v. Equity Residential Holdings, LLC*, that "the housing court is a program within the district court; once the district court reviews and confirms the housing court referee's decision, the findings and order become the district court's findings and order." 849 N.W.2d 87, 92 (Minn. App. 2014). In *Bass* we were not suggesting that the housing court has authority to decide every issue conceivable so long as the district court confirms its decisions. We were

answering only the narrow question of whether "the housing court referee could . . . award damages" under Minnesota Statutes section 504B.375 (2012 & Supp. 2013). *Id.* at 91. To answer that question, we first established that section 484.013, subdivision 2, "specifically grants jurisdiction to the housing court of all proceedings under chapter 504B and permits the housing court to consolidate landlord-tenant damage actions and actions for rent at the request of either party." *Id*. (quotations omitted). The dispute in that case related to residential rental housing, and nothing in our holding says that the housing court has authority outside that field. We add that subdivision 4 also undermines the county's suggestion that our statement in *Bass* recognized the housing court's authority to decide anything so long as the district court confirms its decision. In that subdivision, the legislature confers on the housing-court referee the "duties and powers . . . to hear and report all matters within the jurisdiction of the housing calendar program and as may be directed to the referee by the chief judge." Minn. Stat. § 484.013, subd. 4. If the legislature intended the housing court to have authority over any matter based on the authorizing power of the district court, it would not have included the qualifying authorizing language and instead said only that a referee has the *duties and powers to hear and report all matters directed to the referee by the chief judge*. *Bass* does not support the county.

The county also argues that even if the statute does not assign housing-court authority over this case, rule 602 of the Minnesota Rules of General Practice does:

> The housing court referee may preside over all actions brought under Minnesota Statutes Chapter 504B, criminal and civil proceedings related to violations of any health, safety, housing, building, fire prevention or housing maintenance code, escrow of rent proceedings, landlord and tenant damages

> actions, and actions for rent and rent abatement, unless the matter has been removed for hearing before a judge.

This text mostly mirrors section 484.013's second subdivision. The rule does not (and cannot) broaden a court's jurisdiction. The Rules of General Practice are fashioned by the supreme court, and, except for narrow circumstances not relevant here, the rules cannot expand the authority of any court. *Cf. State v. Stanway*, 174 Minn. 608, 609, 219 N.W. 452, 453 (1928) ("Justice courts are provided for by the state Constitution, but the extent of their jurisdiction is left to the Legislature to determine.") (citing Minn. Const. art. VI, § 8). We add that the rule's subject, unlike the statute's subject, is the "housing court *referee*." By contrast, the statute's subject is the housing court itself. *Compare* § 484.013, subd. 2 ("The housing calendar program may . . . ."), *with* Minn. R. Gen. Pract. 602 (2016) ("The housing court referee may . . . ."). The rule addresses the referee's authority within the housing court's authority; it does not purport to broaden or define the housing court's authority in any way.

The county does not dispute that Hart owned and occupied the home and that she rented it to no one. Hart's house is therefore not "residential rental housing." Because Hart's house is not residential rental housing and the county's nuisance petition did not otherwise "relate[] to residential rental housing," the housing court lacked authority to hear and determine the county's petition against Hart about her use of her property. Hart raises other issues, including a challenge to the housing court's decision to enter a default judgement based on her late arrival to the hearing. We do not reach any of her other arguments in light of our holding as to the housing court's authority.

D E C I S I O N

Because this nuisance action is not related to residential rental property as required for housing-court authority under Minnesota Statutes section 484.013, subdivision 1, the housing court lacked authority to hear the matter.

Reversed.