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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-0645**

Amy Sue Denzer,
Appellant,

vs.

Ann Klugness Dolan,
Respondent.

**Filed November 26, 2018
Affirmed
Bjorkman, Judge**

Ramsey County District Court
File No. 62-HG-CV-18-701

Julie N. Nagorski, DeWitt Mackall Crounse & Moore S.C., Minneapolis, Minnesota (for appellant)

Tristam O. Hage, New Brighton, Minnesota; and

Clarice R. Scarnecchia, Hage Law PLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Cleary, Chief Judge; Bjorkman, Judge; and Rodenberg, Judge.

UNPUBLISHED OPINION

BJORKMAN, Judge

Appellant-tenant challenges a district court order denying her request for money damages and attorney fees in her action to recover possession of her residential premises

under Minn. Stat. § 504B.375 (2016). Because such remedies are not available in a summary proceeding to determine the right to present possession, and because appellant did not show that respondent-landlord acted in bad faith to support an award of damages or attorney fees under Minn. Stat. § 504B.231(a) (2016), we affirm.

FACTS

Appellant Amy Sue Denzer rented a room in respondent Ann Dolan's home on a month-to-month basis from April 2017 to April 2018. When Dolan returned to the home just after midnight on April 2, 2018, she notified Denzer that the "whole house smells like weed" and told Denzer to "leave her house by the morning." Dolan repeated the request the next morning. When Denzer returned home later that day, a locksmith was changing the locks, and Dolan had moved all of Denzer's belongings into the basement. Denzer took what she could carry and left. Dolan believed that Denzer had acquiesced to her request to move out by relinquishing her keys and by asking Dolan to temporarily store a small quantity of her belongings.

Denzer filed a "Verified Petition For Possession Of Residential Rental Property Following Unlawful Removal Or Exclusion (Lockout Petition Under Minn. Stat. § 504B.375)." In her petition, Denzer requested both a hearing to regain possession of the rented room and a hearing under the civil ouster statute (Minn. Stat. § 504B.231 (2016)), to recover "damages, costs, and attorney fees." On April 5, the district court issued an interim order allowing Denzer "to immediately move back into the property" or have access to remove her belongings, and set the matter for hearing on April 11.

During the hearing, both parties testified concerning the circumstances of the lockout. Denzer also testified to incurring out-of-pocket expenses for housing, lost wages, a drug test and vehicle rental, moving costs, and an undisclosed sum for attorney fees at the rate of \$300 per hour. At the conclusion of the hearing, the district court ordered Dolan to allow Denzer immediate possession of her rented room and reimburse Denzer's filing fee. The court otherwise denied the damages claim, explaining on the record that unlawful-exclusion proceedings under section 504B.375 do not permit broader "tenant remedies," such as the recovery of money damages.

On April 23, Denzer wrote a letter to the district court seeking an amended order awarding damages and attorney fees. The district court denied the request in an amended order, stating that Denzer did not offer "a detailed itemization of incurred expenses" and did "not credibly establish that damages justly accrued given the circumstances and her claim for fees and damages was not supported with credible evidence." Denzer appeals.

D E C I S I O N

Interpretation of a landlord-tenant statute is a question of law that we review de novo. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). "When interpreting a statute, we first look to see whether the statute's language, on its face, is clear or ambiguous." *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). If the language is clear, we must "interpret the statute's text according to its plain language." *Brua v. Minn. Joint Underwriting Ass'n*, 778 N.W.2d 294, 300 (Minn. 2010). "We review the district court's findings for clear error and in the light most favorable to the district

court's decision, and defer to the district court's credibility determinations." *Bass v. Equity Residential Holdings, LLC*, 849 N.W.2d 87, 91 (Minn. App. 2014).

Denzer first argues that the district court erred by failing to award her damages and attorney fees under Minn. Stat. § 504B.375. We disagree. Section 504B.375 is designed to provide a "summary remedy for residential tenants unlawfully excluded or removed from rental property." Minn. Stat. § 504B.375, subd. 5. The residential tenant's remedy for unlawful exclusion under this statute is recovery of the right to possess the rental premises. *Id.*, subd. 1(a). The statute does not provide for other remedies. Because the statutory language is clear and free from ambiguity, we must interpret it as drafted. *See Brua*, 778 N.W.2d at 300. Denzer is not entitled to recover damages or attorney fees under section 504B.375. *See Mut. Serv. Cas. Ins. Co. v. Midway Massage, Inc.*, 695 N.W.2d 138, 142 (Minn. App. 2005) ("It is not the province of this court to create a statutory cause of action not provided for by the legislature."), *review denied* (Minn. June 14, 2005).¹

Denzer next contends that the district court erred by denying her claim for damages and attorney fees under Minn. Stat. § 504B.231. We are not persuaded. The civil ouster statute provides: "If a landlord . . . *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)

¹ The summary nature and limited scope of a section 504B.375 unlawful-exclusion action parallels the statutory framework of an eviction action, which defines "eviction" as "a summary court proceeding to remove a tenant or occupant from or otherwise recover possession of real property by the process of law." Minn. Stat. § 504B.001, subd. 4 (2016). *See Deutsche Bank Nat'l Trust Co. v. Hanson*, 841 N.W.2d 161, 164 (Minn. App. 2014) (stating that "[p]arties generally may not litigate related claims in an eviction proceeding").

(emphasis added). Our careful review of the record demonstrates Denzer did not claim or offer evidence that Dolan acted in bad faith. By its clear terms, section 504B.231(a) does not afford the remedies Denzer seeks in the absence of bad faith. Moreover, the district court's credibility determinations suggest that Denzer failed to prove up her claimed damages and attorney fees. *See Bass*, 849 N.W.2d at 91 (deferring to a district court's credibility determinations in a landlord-tenant matter). For these reasons, the district court did not err in rejecting Denzer's claim under Minn. Stat. § 504B.231.

Affirmed.