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**STATE OF MINNESOTA
IN COURT OF APPEALS
A18-2116**

Dominium Management Services LLC,
Appellant,

vs.

Seretha Lee, et al.,
Respondents.

**Filed July 15, 2019
Affirmed
Ross, Judge**

County District Court
File No. 27-CV-HC-18-1865

Christopher T. Kalla, Douglass E. Turner, Hanbery & Turner, P.A., Minneapolis,
Minnesota (for appellant)

Sarah K. Pederson, Mid-Minnesota Legal Aid, Minneapolis, Minnesota (for respondents)

Considered and decided by Ross, Presiding Judge; Bratvold, Judge; and Klaphake,
Judge.*

UNPUBLISHED OPINION

ROSS, Judge

Dominium Management Services LLC attempted to evict a woman and her adult
daughter from their apartment after police discovered a visiting nontenant family member

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

inside possessing illegal drugs (cocaine, ecstasy, and marijuana) and a stolen gun, maintaining that the visitor's presence with the contraband violated an allegedly strict-liability provision of the lease and also violated a covenant not to allow unlawful activities, citing Minnesota Statutes, section 504B.171 (2018). A housing court referee found that the tenants had not been aware that the visitor possessed the gun or cocaine—the only two items that formed the basis of the state's prosecution of the visitor. The referee concluded that the alleged lease violation and alleged statutory violation did not justify eviction, and the district court affirmed that decision. Dominion asks us to reverse on appeal based on the strict-liability provision of the lease, the force of which it argues is not diminished by any language in section 504B.171. Because Dominion failed to introduce into the record either the alleged lease or the transcript of the evidentiary hearing where the parties might have articulated the lease terms, we will not address Dominion's argument on appeal challenging the district court's conclusion that the lease violation does not warrant eviction. We therefore affirm.

FACTS

Police executing a warrant searched an apartment that Seretha Lee and her 20-year-old daughter Zenitra Lee were renting. Police were investigating Michael Lee, Seretha's estranged husband, and believed that he lived there. The search revealed marijuana in the master bedroom. It also revealed ecstasy, cocaine, and a stolen gun in a backpack containing Michael Lee's identification. The state charged Michael with illegal possession of a firearm and controlled substances (only the cocaine).

Dominium filed a complaint in district court seeking to evict the Lee women, alleging that they had violated both a crime-free provision in their lease and the statutory covenant prohibiting illegal activity on leased property under Minnesota Statutes, section 504B.171 (2018). Seretha Lee testified at the eviction trial that Michael did not live in the apartment and did not have permission to enter without her consent. But Zenitra Lee admitted that she permitted Michael to enter because he looked like he needed a shower.

The housing court referee found that Seretha Lee knew or should have known that Michael had used marijuana at the residence and that Zenitra Lee allowed him to enter on the date police executed the warrant. But the referee found that the Lees did not know about any other controlled substance or the gun and that they therefore did not knowingly allow Michael to unlawfully possess these items inside the home. The referee found that Zenitra's permitting Michael into the apartment that day despite his drug history did not amount to good cause to evict for several reasons, citing Zenitra's relative youth, the fact that Seretha was the head of the household and that Zenitra had invited Michael in without Seretha's consent, and the fact that the Lees had committed no prior violations.

Dominium sought district court review of the referee's confirmed decision. The district court affirmed the referee's decision, observing that the lease Dominium introduced as evidence was not yet in effect at the time Michael Lee's contraband was discovered and holding that Dominium had not demonstrated good cause to evict the Lees. Dominium appeals.

DECISION

Dominium forwards two theories for us to reverse the district court's denial of its eviction complaint. It argues first that it was entitled to evict the Lees because the anticrime provision of their lease is a strict-liability term, and Michael's crime occurred on the leased premises. It argues second that the Lees committed multiple lease violations and that the violations together constitute good cause for their eviction. Neither argument convinces us to reverse.

We do not consider Dominium's primary argument on appeal, which is that the district court erroneously failed to apply a strict-liability, anticrime provision of the lease. Dominium insists that "[t]he unambiguous language of the Lease" includes the operative provision justifying eviction and that "[t]he question for [this court] will be whether [a specified] sentence [in Minnesota Statutes, section 504B.171] overrides the language of the Lease with regards to criminal activity related to [Michael's drug and gun crimes]." We do not consider this argument because, as the district court observed, Dominium failed to introduce at trial a copy of the lease in effect at the time of Michael's crimes. Dominium had the burden of proof to justify evicting the Lees. *See Nationwide Hous. Corp. v. Skoglund*, 906 N.W.2d 900, 907–08 (Minn. App. 2018) (discussing landlord's burden to prove a lease violation in order to evict a tenant), *review denied* (Minn. Mar. 28, 2018). It offered a lease covering a later period, beginning April 1, 2018, but this was not the lease in effect on March 8, 2018, when police found Michael's contraband. By failing to provide

evidence of the terms of the effective lease, Dominium failed to prove that the Lees' tenancy was subject to an alleged strict-liability, anticrime provision.

The district court brought this deficiency to Dominium's attention and invited a response. Dominium responded with various legal arguments, but it never offered into evidence any written lease covering the relevant period or even offered evidence that one existed. It also did not provide a transcript of the evidentiary hearing before the referee or argue that the testimony presented to the referee established that the language of the lease that was admitted into evidence constituted a lease term at the time of the offending conduct. Although the district court chose to decide the case and deny the eviction by assuming that any lease that existed included the same language as the lease actually admitted into evidence, we may affirm the result based on any of the legal grounds that were before the district court. *Myers through Myers v. Price*, 463 N.W.2d 773, 775 (Minn. App. 1990), *review denied* (Minn. Feb. 4, 1991).

We have no proper way to consider Dominium's argument that the district court misinterpreted or misapplied the allegedly strict-liability language of its lease with the Lees. The operative lease is not in the record, no testimony of the allegedly relevant language of the operative lease appears in the record, and the record includes no evidence establishing that the operative lease included language identical to the language in the lease that does appear in the record. We therefore reject as factually unsupported Dominium's argument on appeal that the district court failed to apply "[t]he unambiguous language of the Lease" that establishes a strict-liability, anticrime basis for the eviction.

We offer no opinion as to whether Minnesota Statutes, section 504B.171, alone justifies the eviction on the theory that its anti-drug-possession covenant was incorporated into the missing operative lease. Although Dominium suggested that theory to the district court, it nowhere makes that argument on appeal, relying instead exclusively on the written language in the submitted lease and citing section 504B.171 only for its contention that its qualifying terms do not diminish the effectiveness of the lease's allegedly strict-liability provision.

Dominium's only other argument on appeal is that the district court abused its discretion by concluding that Michael's criminal conduct on the premises did not establish "good cause" to evict the Lees under the framework developed for eviction under certain subsidized housing restrictions as discussed in *Cimarron Village v. Washington*, 659 N.W.2d 811, 817 (Minn. App. 2003). It is not at all clear to us that the *Cimarron Village* framework applies to this case in which eviction was sought on other grounds. But for the same reasons we do not reach Dominium's principal argument, we need not address this one. Regardless of whether the district court properly analyzed this issue, we will not reverse the result because of Dominium's failure to provide the necessary evidence supporting eviction under the operative written lease.

Affirmed.