

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1859**

The Community Cares,
Respondent,

vs.

Dion Faulkner,
Appellant,

Jane Doe,
Defendant.

**Filed August 24, 2020
Affirmed
Worke, Judge**

Hennepin County District Court
File No. 27-CV-HC-19-4765

The Community Cares, Minneapolis, Minnesota (respondent)

Mary S. Kaczorek, Samuel J. Manning, Mid-Minnesota Legal Aid, Minneapolis,
Minnesota (for appellant)

Considered and decided by Jesson, Presiding Judge; Worke, Judge; and Hooten,
Judge.

S Y L L A B U S

Agents are authorized to appear in designated housing courts on behalf of business-
entity landlords under Minn. R. Gen. Prac. 603.

O P I N I O N

WORKE, Judge

Appellant challenges the denial of his motion to dismiss an eviction action, arguing that the district court misinterpreted Minn. R. Gen. Prac. 603 and the common law by allowing respondent landlord, a limited liability company, to appear in housing court represented by an agent rather than a licensed attorney. We affirm.

FACTS

In January 2018, appellant Dion Faulkner signed a residential lease for a unit owned by respondent The Community Cares. The lease called for Faulkner to pay \$1,200 per month in rent. After Faulkner allegedly failed to pay \$3,600 in rent, an agent on behalf of The Community Cares signed and filed an eviction complaint against him and defendant Jane Doe. The Community Cares attached to the complaint a power of authority authorizing the agent to appear on its behalf in housing court.

At the eviction hearing, Faulkner moved to dismiss, arguing that Minn. R. Gen. Prac. 603 did not authorize an agent to appear on behalf of a business-entity landlord and cited the supreme court's recent "guidance" on the issue. The referee recommended that the district court deny Faulkner's motion to dismiss and find that The Community Cares proved failure to pay rent. The district court countersigned the referee's recommended order and entered judgment accordingly. This appeal followed.

ISSUE

Did the district court err by denying appellant's motion to dismiss when an agent appeared on behalf of a business-entity landlord in housing court?

ANALYSIS

Faulkner argues that the district court erred by allowing a business-entity landlord to appear through a non-attorney agent in housing court. He contends that the district court misinterpreted and misapplied Minn. R. Gen. Prac. 603 and the common-law rule requiring business entities to appear only through counsel. He asserts that The Community Cares defaulted by failing to appear through an attorney.

Minnesota appellate courts interpret general rules of practice de novo. *Sela Invs. Ltd., L.L.P. v. H.E.*, 909 N.W.2d 344, 346 (Minn. App. 2018). Title VII of the General Rules of Practice for the District Courts, under which rule 603 falls, is titled, “Housing Court Rules--Hennepin and Ramsey Counties.” Rule 603 provides:

An unlawful detainer action shall be brought in the name of the owner of the property or other person entitled to possession of the premises. No agent shall sue in the agent’s own name. Any agent suing for a principal shall attach a copy of the Power of Authority to the complaint at the time of filing. No person other than a principal or a duly licensed lawyer shall be allowed to appear in Housing Court unless the Power of Authority is attached to the complaint at the time of filing, and no person other than a duly licensed lawyer shall be allowed to appear unless the Power of Authority is so attached to the complaint. An agent or lay advocate may appear without a written Power of Authority if the party being so represented is an individual and is also present at the hearing.

This rule applies to all proceedings in housing court in Hennepin and Ramsey Counties. See Minn. R. Gen. Prac. 601 (“In Hennepin and Ramsey Counties, Rules 601 through 612 apply to all proceedings in Housing Court.”).

We disagree with Faulkner’s contention that the district court misinterpreted rule 603. We have interpreted rule 603 to be an exception to the common-law rule that business

entities must appear through counsel. See *Hinckley Square Assocs. v. Cervene*, 871 N.W.2d 426, 429 (Minn. App. 2015) (stating common-law rule that business entities may only appear through licensed counsel in district court and recognizing that, under rule 603, “landlords may appear through lay agents in the specialized housing courts of Hennepin and Ramsey Counties”).¹ While Faulkner characterizes this recognition of the exception to the common-law rule as dicta, one part of the rather narrow holding in *Hinckley Square* was that, generally, business entities may not appear except when authorized by court rule. *Id.* at 430 (“Because we see no reason to treat limited partnerships differently from corporations or limited liability companies in this context, we conclude that limited partnerships must also be represented by a licensed attorney in pleadings and practice in district court *except when otherwise authorized by court rule.*” (emphasis added)).² Because rule 603 allows an agent to appear on behalf of a business-entity landlord, and The Community Cares complied with the requirements of the rule by attaching a power of authority to the complaint, the district court did not err by denying Faulkner’s motion to dismiss.

¹ We are aware of the long-standing disagreement over the meaning of rule 603. But the explicit language of rule 603 is fashioned by the supreme court, which has inherent authority to regulate the bar and determine who is authorized to practice law in Minnesota. See *Nicollet Restoration, Inc. v. Turnham*, 486 N.W.2d 753, 755 (Minn. 1992) (noting that under the Minnesota constitution, the power to make rules governing the bar and who may practice law is vested exclusively in the supreme court). In reaching our decision, we rely on the plain language of rule 603, which is unambiguous. If the scope of permitted appearances is to be narrowed, that is a decision for the supreme court.

² To the extent that the statements regarding rule 603 in *Hinckley Square* are dicta, the supreme court has recognized that, “[e]ven dictum, if it contains an expression of the opinion of the court, is entitled to considerable weight.” *In re Estate of Bush*, 224 N.W.2d 489, 501 (Minn. 1974).

As further support for his position, Faulkner argues that the district court's interpretation of Minn. R. Gen. Prac. 603 was twice rejected through the Minnesota Supreme Court's rulemaking process. In advancing this argument, Faulkner relies on the recommendations of the Minnesota Supreme Court Advisory Committee on the General Rules of Practice from 2009 and 2018. In addition, he cites a 2019 order of the Minnesota Supreme Court. *Order Promulgating Amendments to the General Rules of Practice for the District Courts*, No. ADM09-8009 (Minn. May 13, 2019).

Neither the recommendations nor the order support Faulkner's position. The cited recommendations are not court rules and are in the realm of public policy, which this court does not create. *See LaChapelle v. Mitten*, 607 N.W.2d 151, 159 (Minn. App. 2000) ("Because this court is limited in its function to correcting errors it cannot create public policy."), *review denied* (Minn. May 16, 2000). And, as Faulkner accurately concedes, the rule remained unchanged because the supreme court's order did not adopt the recommended amendment to rule 603. *See Order*, No. ADM09-8009.

D E C I S I O N

Minnesota Rule of General Practice 603 allows a non-attorney agent to appear in housing court on behalf of a business-entity landlord. Because The Community Cares attached a power of authority to the eviction complaint, an agent was authorized to appear on its behalf in housing court. Therefore, we affirm the district court's denial of Faulkner's motion to dismiss and the entry of judgment against Faulkner.

Affirmed.