STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1676

Yusur R. Said,
Respondent,

vs.

Old Home Management, LLC,
Appellant.

Filed December 19, 2022
Affirmed
Bratvold, Judge

Hennepin County District Court
File No. 27-CV-19-17290

Steven R. Coon, The Law Offices of Steven Coon, Minneapolis, Minnesota (for respondent)

Scott W. Swanson, St. Paul, Minnesota (for appellant)

Considered and decided by Wheelock, Presiding Judge; Bratvold, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

BRATVOLD, Judge

Appellant Old Home Management, L.L.C., a property-management company, managed an apartment leased to respondent Yusur Said, who gave notice of her intent to end the lease and move. Said filed a complaint in district court claiming Old Home was liable under theories of ouster, conversion, and a violation of a duty to care for her personal

property. After a bench trial, the district court found that Old Home "threw away all of [Said's] property in one day" before Said's agreed-upon moving date. The district court found Old Home unlawfully took possession of Said's personal property, and after Said returned home to her empty apartment, Old Home told Said it had disposed of her personal property. The district court determined Said prevailed and awarded actual damages of $58,668, along with punitive damages of $58,668. Old Home appeals from the district court's judgment, challenging only the punitive damages award under Minn. Stat. § 504B.271, subd. 2 (2022) (subdivision 2).

Old Home argues that we must reverse because Said did not make a written demand for return of her personal property as required by subdivision 2. Said argues that either no written demand was required based on the facts in this case or that Said satisfied the written demand requirement when she commenced her claim against Old Home in conciliation court. Based on the text of subdivision 2, we conclude that Said satisfied the written demand requirement in subdivision 2 by commencing a conciliation court action for damages. Thus, we affirm.

FACTS

The following facts were found by the district court after a bench trial and are not challenged by Old Home on appeal. Said began renting her Minneapolis apartment in April 2015 under a lease with a different landlord. Old Home took over management in 2019 on behalf of a new landlord, who is not a party to this action. At the time of the events giving rise to this action, Said was a month-to-month tenant. Said speaks English, "but her fluency is limited." She relied on her adult daughter to communicate with Old Home.

On June 5, 2019, Said gave written notice to Old Home that she would be moving out "at the end of June 2019." The district court found the parties agreed Said "would move out by noon on June 30, 2019."

Said boxed and labeled most of her personal property inside her apartment. On June 24, 2019, Said's daughter spoke with Old Home and asked if she could leave an unwanted box spring by the dumpster. Old Home told Said's daughter she could leave unwanted large items in the apartment, and Old Home's cleaning crew would "get rid" of them. The district court found that "based on the June 24 phone call" with Said's daughter, Old Home had the "mistaken belief that Ms. Said planned to move out before the end of June" and "had given permission for anything remaining in the apartment to be thrown away." The district court found this belief "unreasonable because it was contrary to the [parties'] agreement."

On June 25, Said locked and left her apartment in the morning to babysit her grandchildren overnight. Also on the morning of June 25, Old Home told the cleaning manager that Said's apartment should be "turned and that any remaining property should be discarded."

The cleaning crew arrived to turn Said's apartment, and after seeing "that the apartment was still quite full," a crew worker called Old Home to confirm that they were to dispose of the items because the apartment "looked occupied." Old Home told the crew worker "that everything was garbage and should be thrown away." The cleaning crew hauled "six vanloads of home furnishings and personal property from [Said's] apartment" to dumpsters at three different apartment buildings.

Said returned to her apartment on the evening of June 26, 2019, to find "everything was missing." Believing her property had been stolen, she called the police and filed a report. Said then noticed that the walls had fresh paint and believed that Old Home had removed her possessions. Said's daughter spoke with Old Home on June 27, and Old Home confirmed that "everything was gone from the apartment." That same day, the cleaning-crew worker drove Said and her daughter to the three dumpsters to see if any of her property could be recovered—they found only a cooking pot and several personal photos. Old Home apologized, offered Said $100.00, "and asked what else [it] could do to make things right."

On July 30, 2019, Said filed and served a statement of claim and summons in conciliation court seeking damages from Old Home for throwing out "everything from her apartment without notice." After the conciliation court found in favor of Said, Old Home removed the claim to district court. Said's amended complaint asserted unlawful ouster under Minn. Stat. § 504B.225 (2022), unlawful disposal of tenant property under Minn. Stat. § 504B.271 (2022), and common-law conversion; Said alleged damages that specifically included the loss of jewelry that the district court later found to be "a lifetime collection," culturally significant to Said, and valued at $46,417.00.

After trial, the district court issued written findings of fact, conclusions of law, and an order for judgment. The district court found that Old Home did not have lawful possession of Said's personal property and disposed of Said's personal property by removing it from her apartment. The district court also found that Said did not abandon her apartment or her personal property and that Said had lawful possession of the apartment

for five days after Old Home disposed of the property. The district court determined that Old Home violated Minn. Stat. § 504B.271, subd. 1, because Old Home "did not store and care for" Said's personal property and instead "threw away all of her property in one day." The district court determined that Said incurred actual damages of $58,668, including loss of the jewelry, and that Said had a right to recover punitive damages under subdivision 2.

The district court rejected Old Home's argument that Said failed to make "a written demand for the property to retake possession," finding that "in this instance, where the property was already gone, there was no need for Ms. Said to go through the pretense of making a written demand for the return of the property after she had immediately called and asked about the property and was told that it had been thrown away."

When determining the amount of punitive damages, the district court considered the four factors provided in subdivision 2 and found three factors supported "greater punitive damages." As for the fourth factor, bad faith, the district court found Old Home "was honest when [its employee] said she believed that Ms. Said had moved out." The district court found, however, that Old Home's belief was "not reasonable," Old Home acted with reckless disregard for Said's rights because "no one bothered to make even one phone call to check" whether Said had moved out, and "this was not a one-time mistake." The district court found that "[i]t is clear from the testimony that the practice of Old Home was to frequently ignore their obligation to hold property for 28 days." The district court determined Old Home's reckless disregard of Said's rights was sufficient to find bad faith under subdivision 2 and awarded Said punitive damages "equal to the amount of actual damages."

On Said's other claims, the district court determined Old Home "illegally removed her from her home" in violation of Minn. Stat. § 504B.375 (2020) (ouster).[1] The district court finally concluded that Old Home unlawfully converted Said's personal property. The district court directed entry of judgment for actual damages of $58,668 (for conversion and violation of Minn. Stat. § 504B.271) plus prejudgment interest, costs, and disbursements, punitive damages of $58,668, and reasonable attorney fees.

Old Home appeals.

DECISION

On appeal, Old Home challenges the award of punitive damages, arguing that a tenant may recover punitive damages under Minn. Stat. § 504B.271, subd. 2, only if the tenant made a written demand for return of the property. Said argues no written demand is "necessary" because Old Home disposed of Said's personal property in violation of Minn. Stat. § 504B.271, subd. 1, and, alternatively, that subdivision 2's written-demand requirement was satisfied when Said filed and served her statement of claim for damages in conciliation court.

This presents a question of statutory interpretation, which we review de novo. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). "The purpose of all statutory interpretation is to ascertain and effectuate the intent of the Legislature." *Cent. Hous. Assocs., LP v. Olson*, 929 N.W.2d 398, 402 (Minn. 2019) (quotation omitted); *accord*

[1] The district court determined that, under the ouster statute, Old Home's reckless disregard of Said's rights was not sufficient to find bad faith and therefore did not award treble damages, citing to *Reimringer v. Anderson*, 960 N.W.2d 684 (Minn. 2021).

Minn. Stat. § 645.16 (2022). "The first step in statutory interpretation is to determine whether the statute's language, on its face, is ambiguous." *Christianson v. Henke*, 831 N.W.2d 532, 536 (Minn. 2013) (quotations omitted). The statute is ambiguous when its language is subject to "more than one reasonable interpretation." *Id.*

We construe the statute as a whole and interpret each section to give effect to all of its provisions. *Am. Fam. Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). If the language of the statute is not ambiguous, our role is to enforce the language. *Christianson*, 831 N.W.2d at 537. If the language of the statute is ambiguous, we may then consider "canons of construction to ascertain the Legislature's intent." *Olson*, 929 N.W.2d at 402; *accord* Minn. Stat. §§ 645.16, .17 (2022).

Minn. Stat. § 504B.271 outlines landlord and tenant rights and obligations regarding a tenant's personal property. We begin our analysis by examining the first paragraph of subdivision 2, which provides that a tenant may recover punitive damages from a landlord who fails to return a tenant's personal property "after written demand by the tenant":

> If a landlord, an agent, or other person acting under the landlord's direction or control, in possession of a tenant's personal property, fails to allow the tenant to retake possession of the property within 24 hours *after written demand by the tenant* or the tenant's duly authorized representative or within 48 hours . . . *after written demand by the tenant* or a duly authorized representative when the landlord . . . has removed and stored the personal property in accordance with subdivision 1 in a location other than the premises, *the tenant shall recover from the landlord punitive damages* in an amount

> not to exceed twice the actual damages . . . in addition to actual damages and reasonable attorney's fees.

Minn. Stat. § 504B.271, subd. 2 (emphasis added).[2] We consider the parties' textual arguments about the written-demand requirement in subdivision 2.

Old Home argues that the first paragraph of subdivision 2 is not ambiguous, and "before a tenant may obtain punitive damages . . . , he or she must have first made written demand for the property." As for what satisfies the written-demand requirement, Old Home insists the demand must be "for the return of [the tenant's] personal property." At oral argument, Old Home contended that Said's statement of claim for conciliation court was not a written demand for return of her property because she did not "check the box" seeking return of the property, as would be done in an action for replevin.

Said argues that the written-demand requirement in the first paragraph of subdivision 2 applies only "where the landlord is in possession of the tenant's personal property." Because Old Home disposed of Said's personal property, Said urges us to affirm the district court's decision that "no written demand was required."

Neither party's argument is convincing. First, subdivision 2 says, "written demand"; it does not say, "written demand for return of the property," which is what Old Home contends, nor does it say, "written demand unless the landlord no longer has possession of the property," which is what Said contends. It is not the court's role to add language to a

[2] Subdivision 4 provides that the remedies set out in section 504B.271 are "in addition to and shall not limit other rights or remedies available to landlords and tenants." Minn. Stat. § 504B.271, subd. 4. It also provides that any oral or written agreement to waive "any provision of this section" by a tenant "is contrary to public policy and void." *Id*.

statute. *Johnson v. Cook County*, 786 N.W.2d 291, 295 (Minn. 2010) ("We may not add words to a statute that the Legislature has not supplied.").

Second, the plain language of this statute does not limit the form of the required written notice. We have held in other contexts that a timely and sufficiently detailed summons and complaint may satisfy a notice requirement. *See Peterson v. Johnson*, 733 N.W.2d 502, 504-05 (Minn. App. 2007) (holding that a summons and complaint provided adequate notice of a homeowner's claim for breach of statutory home warranty where the statute did not "limit the form that the written notice must take," and the summons and complaint was timely and detailed). We find this caselaw analogous and persuasive. We also note that Old Home does not contend that Said's statement of claim was untimely or insufficiently detailed.

Third, Old Home's reference to a replevin action does not persuade us. It is true that replevin is an action for claim and delivery of personal property—where, if the prevailing party is not in possession of the property, the judgment may be in the alternative—"for the return of the property, or its value in case return cannot be made." *Katz v. Hlavac*, 92 N.W. 506, 507 (Minn. 1902); *see also* Minn. Stat. § 548.04 (2022) (providing that a claimant in replevin may obtain judgment for possession of the property or "[i]f possession cannot be obtained," a judgment for damages); *Storms v. Schneider*, 802 N.W.2d 824, 827 (Minn. App. 2011) (replevin is "the appropriate means to recover possession of personal property" (quotation omitted)), *rev. denied* (Minn. Oct. 26, 2011).

Generally, a replevin action requires that the owner demand the return of property. Minn. Stat. § 548.04 (providing judgment in replevin may be granted for plaintiff or

defendant "if the property has not been delivered, and a return is claimed in the complaint or answer"); *see also Bradley v. Gamelle*, 7 Minn. 331, 334, 7 Gil. 260, 261 (1862) ("[R]eplevin will lie upon a refusal to deliver [personal property] to the real owner, or person entitled to the immediate possession of it."). And Old Home is correct that the statement of claim—a form complaint used in conciliation court—includes a box that may be checked to show that a defendant possesses property that the plaintiff claims to own. Said did not check that box when she commenced her claim against Old Home.

Old Home's analysis is flawed, however, because Said did not assert replevin, and subdivision 2 does not require that she do so to recover punitive damages. Even if we were to rely on replevin caselaw to interpret subdivision 2, we would conclude that a written demand for damages is sufficient. *See generally Hoiby v. Fed. Motor Truck Sales Corp*., 241 N.W. 58, 59 (Minn. 1932) ("Proof of demand before suit was not necessary."); *Guthrie v. Olson*, 46 N.W. 853, 853 (Minn. 1890).[3] Here, the district court determined that Old Home wrongfully took possession of Said's personal property, Old Home does not challenge that determination on appeal, and Said made a written demand for damages. Thus, we reject Old Home's argument that Said needed to make a written demand

[3] In *Guthrie*, the supreme court reversed the district court's decision to enter judgment for a defendant in a replevin action when the plaintiff made no demand for return of the property. 46 N.W. at 853-54. The supreme court explained that "[t]he main object of a demand is to afford the defendant an opportunity to restore the property to the rightful owners without being put to the expense and annoyance of litigation." *Id*. at 853. But when the defendant wrongfully acquired possession of the property, "the law presumes that he remains in the same state of mind" and "would not have surrendered the property even if a demand had been made." *Id.*

specifically requesting the return of her personal property before she could recover punitive damages under subdivision 2.

Based on subdivision 2's bare requirement of a "written demand" and the lack of any mention that the written demand must seek return of the tenant's personal property, we are persuaded that Said's timely and detailed statement of claim for damages against Old Home in conciliation court satisfied the written-demand requirement. Because we conclude that the written-demand requirement is unambiguous, we need not consider the parties' attempts to construe the requirement based on competing views of related provisions in section 504B.271.

Because Minn. Stat. § 504B.271, subd. 2, allows a tenant to recover punitive damages where a landlord fails to return a tenant's personal property within 24 hours after a tenant's written demand, and Said made a written demand by serving and filing a statement of claim for damages in conciliation court, the district court did not err when it imposed punitive damages against Old Home for failing to return Said's personal property.

Affirmed.