

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-1204**

Issiaka Isaac Traore,
Appellant,

vs.

Essa Sissoho,
Defendant,

Terra Pointe Apartments, et al.,
Respondents.

**Filed March 3, 2025
Affirmed
Slieter, Judge**

Ramsey County District Court
File No. 62-HG-CV-24-1685

Issiaka Traore, St. Paul, Minnesota (*pro se* appellant)

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

Considered and decided by Bentley, Presiding Judge; Worke, Judge; and Slieter,
Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this appeal, appellant challenges the district court’s finding that he is not an “other regular occupant” under Minn. Stat. 504B.001, subd. 12 (2024) and argues that the district court therefore erred by denying his petition for recovery of the apartment and granting

respondent-landlord's eviction petition. Because we discern no clear error in the district court's finding that appellant is not an "other regular occupant" or that he, therefore, has no legal right to possession of the apartment, we affirm.

FACTS

Appellant Issiaka Isaac Traore brought a petition against respondents Terra Pointe Apartments, et al. (the landlord) under Minn. Stat. § 504B.375 (2024), claiming that the landlord unlawfully excluded him from an apartment by changing the lock on the apartment door. The landlord counterclaimed, seeking to evict Traore. The following facts derive from the court trial and the district court's findings.

In January 2024, Traore temporarily moved into an apartment that the landlord leased to Essa Sissoho. Sissoho did not obtain the landlord's approval, as required by the lease, before allowing Traore to live in his apartment, nor did Traore subsequently inform the landlord that he was living in Sissoho's apartment.¹ Traore paid varying amounts of rent to Sissoho.

Following a dispute over how much rent Traore should pay, Sissoho told Traore to leave the apartment. Traore refused to leave, and the landlord, at Sissoho's request, changed the apartment lock. Traore asked the landlord for access to the apartment, which the landlord denied. Traore twice attempted to regain entry to the apartment and was barred from the apartment building by the landlord.

¹ Sissoho was a party to the landlord's eviction counterclaim, which was granted by the district court. He did not appeal his eviction.

The district court denied Traore's petition for recovery of the apartment, determining that he was not a residential tenant because he did not qualify as an "other regular occupant." Based upon the same reasoning, the district court granted the landlord's eviction counterclaim.

Traore appeals.

DECISION

On appeal, Traore challenges the district court's finding that he is not an "other regular occupant" under Minn. Stat. 504B.001, subd. 12, and its determination that he, therefore, is not entitled to possession of the apartment.

To succeed in his challenge to the district court's findings of fact, Traore must demonstrate clear error. *Bass v. Equity Residential Holdings, LLC*, 849 N.W.2d 87, 91 (Minn. App. 2014). A finding is clearly erroneous if it is "manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole." *In re Civ. Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted). When reviewing findings of fact for clear error, appellate courts "view the evidence in a light most favorable to the findings[;]" do not find their own facts; do not "reweigh the evidence[;]" and do not "reconcile conflicting evidence." *Id.* at 221-22 (quotations omitted). "When the record reasonably supports the findings at issue on appeal, it is immaterial that the record might also provide a reasonable basis for inferences and findings to the contrary." *Id.* at 223 (quotation omitted).

A "residential tenant" may bring an action for recovery of possession if they have been unlawfully removed or excluded from their dwelling. Minn. Stat. 504B.375, subd. 1.

A “residential tenant” is defined to include all “other regular occupants” of the dwelling. Minn. Stat. § 504B.001, subd. 12. Defining the term “other regular occupant” involves a question of statutory interpretation that we review *de novo*. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016).

In *Quinn v. LMC NE Minneapolis Holdings, LLC*, this court determined that Minn. Stat. § 504B.001, subd. 12, was unambiguous and that whether “a person qualifies as an ‘other regular occupant’ is a question of fact in each case to be ascertained by consideration of a totality of the relevant circumstances and that no single factor is necessarily dispositive.” 972 N.W.2d 881, 888 (Minn. App. 2022), *rev. granted* (Minn. June 29, 2022) *and appeal dismissed* (Minn. Feb. 17, 2023). The relevant factors include (1) “the duration, continuity, and nature of the occupancy,” (2) “the existence and terms of a lease or any other agreements related to the occupancy,” and (3) “whether the landlord knew of or reasonably should have known of the person’s occupancy.” *Id.* We next consider the district court’s findings as to each factor.

Duration, Continuity, and Nature of the Occupancy

The district court found that Traore initially started living in Sissoho’s apartment as a guest for one month but continued to reside in the apartment for five months. The district court also found that the amount of rent Traore paid Sissoho fluctuated. Based on these findings, the district court determined that Traore lived in the apartment temporarily, though continuously, for a five-month period. Because the record supports the district court’s findings as to this factor, they are not clearly erroneous and support a determination that Traore was not an “other regular occupant.”

The Existence and Terms of the Lease

The district court found, and Traore does not dispute, that he was not named in the lease and that the lease prohibited subleasing without approval of the landlord. The district court also found, and Traore also does not dispute, that neither Sissoho nor Traore sought authorization from the landlord to reside in the apartment. Because the record supports the district court's findings as to this factor, they are not clearly erroneous and support a determination that Traore was not an "other regular occupant."

Landlord's Knowledge

The district court found that the landlord was unaware that Traore was residing in the apartment. The district court noted that, unlike the appellant in *Quinn*, Traore "did not present evidence that he walked by the concierge/property management office daily, actively use the common areas and facilities, or receive mail and visitors there." And as we already noted, the district court found that Traore made no attempt to notify the landlord that he was residing in Sissoho's apartment. Because the record supports the district court's findings as to this factor, they are not clearly erroneous and support a determination that Traore was not an "other regular occupant."

In sum, Traore has not demonstrated that the district court clearly erred in its factual findings or in its determination that Traore is not an "other regular occupant" based upon the totality of the circumstances. And, because Traore is not an "other regular occupant," he has no right to possess the apartment.

Finally, Traore claims that, because he was precluded from being on the premises and was not in possession of the apartment, it was error for the district court to grant the

landlord an eviction. We need not address the merits of Traore's claim because he did not raise it in district court. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (asserting that appellate courts generally will not consider matters not argued to or considered by the district court). However, even if we were to reach the merits of Traore's claim, it is unpersuasive. Physical possession is not required for one to claim occupancy. *See Cocchiarella*, 884 N.W.2d at 628 (determining that an individual need only present a legal right of occupancy). And based upon his petition for occupancy, Traore was claiming a legal right to occupy the apartment. The district court acted within its discretion when it entered an eviction judgment.

Affirmed.