This opinion is nonprecedential except as provided by Minn.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
A24-1420

Natalie Synhaivsky,
Appellant,

vs.

Associated Bank,
Respondent.

Filed July 21, 2025
Reversed and remanded
Bentley, Judge

Hennepin County District Court
File No. 27-CV-23-11301

Natalie Synhaivsky, Edina, Minnesota (self-represented attorney)

Joshua A. Hasko, Sydnie M. Peterson, Messerli & Kramer P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Larson, Judge; and Bentley, Judge.

NONPRECEDENTIAL OPINION

BENTLEY, Judge

After appellant Natalie Synhaivsky failed to appear at a trial on her conversion claim against respondent Associated Bank, the district court granted the bank's motion to dismiss Synhaivsky's complaint with prejudice on the same day. Synhaivsky appeals on the basis that the district court provided inadequate notice of the trial date and that she did not have an opportunity to oppose the dismissal. She also argues that the district court erred by granting a motion in limine brought by the bank before trial. We reverse and remand because the district court did not follow proper procedures prior to dismissing the case under Minnesota Rule of Civil Procedure 41.02(a).

FACTS

On July 12, 2023, Synhaivsky filed a complaint as a self-represented attorney, alleging that the bank committed conversion by allowing an unauthorized withdrawal from her account. The bank answered, and the district court issued a scheduling order. The order provided that "[a]ll dispositive and non-dispositive motions shall be scheduled with the Court to be heard on or before March 24, 2024." If the parties wished to schedule a hearing on a dispositive motion, they were required to "contact the Court at least 60 days before the motion deadline," which was January 24, 2024. The order also stated that trial would be scheduled at a time between August 19, 2024, and September 13, 2024, and that "[a]n order for trial will follow."

There was no further action in the matter until February 12, 2024, when Synhaivsky sought an extension of the dispositive-motion deadline, which she stated she missed because of her "careless reading." The district court denied her request for an extension. On March 19, 2024, Synhaivsky filed a motion for summary judgment anyway, which the bank moved to strike as untimely. The district court granted the bank's motion to strike on June 27, 2024.

That same day, the district court issued a "trial order" reiterating that the matter would be set for trial between August 19, 2024, and September 13, 2024, and could be "called for trial on a 24-hour notice" during that period. The order instructed the parties to file any motions in limine two weeks before the first day of the trial block and to file any responses to those motions at least one week before the first day of the trial block. The order noted that sanctions for noncompliance could include "dismissal of the action, or entry of a default judgment."

On August 5, 2024, the bank timely filed a motion in limine. On August 14, 2024, after Synhaivsky had not timely responded to the bank's motion, the district court granted it. Five days later, Synhaivsky filed a motion opposing the bank's motion in limine. The district court denied Synhaivsky's motion because it was filed after the deadline for a response.

Leading up to the trial, the bank exchanged emails with the judge's law clerk about the logistics of the trial. The emails are not in the appellate record, but the parties represent that Synhaivsky was copied on the email thread. On or around August 13, 2024, the clerk responded to that email thread and informed the parties that the matter was set for trial on August 28, 2024.[1] Again, Synhaivsky was copied on that email.

On August 28, 2024, Synhaivsky failed to appear for trial. At around 9:30 a.m., the district court noted that Synhaivsky was not present, the court had not "received any communication from her whatsoever about why she isn't here," and the clerk of the court had "called her ten or 15 minutes ago and got voicemail." The bank moved to dismiss the

[1] The parties' briefs provide different dates for when the district court sent the email notifying the parties of the scheduled trial date. Synhaivsky's brief states that it was sent on August 13, 2024, while the bank's brief states August 14, 2024. The discrepancy is immaterial to the issues on appeal.

case on the record. The district court granted the motion from the bench and, later that day, issued an order to that effect. The next day, Synhaivsky responded by email opposing the bank's motion to dismiss. On September 4, 2024, the district court entered final judgment of dismissal.

Synhaivsky appeals.

DECISION

Synhaivsky challenges the district court's decision to grant the bank's motion to dismiss and motion in limine. She argues that the bank's motion to dismiss was granted improperly because the district court did not provide her with adequate notice of the trial date and granted the motion to dismiss before she had an opportunity to respond. The bank maintains that the district court acted within its discretion in dismissing the complaint because Synhaivsky did not seek posttrial relief, she was fairly on notice of the trial date and therefore had no reasonable justification for her nonappearance, and the bank was prejudiced by her nonappearance.

A district court "may upon its own initiative, or upon motion of a party, and upon such notice as it may prescribe, dismiss an action or claim for failure to prosecute or to comply with these rules or any order of the court." Minn. R. Civ. P. 41.02(a). Because "[i]nvoluntary dismissal is a severe remedy [that] . . . operates as an adjudication on the merits," *Bonhiver v. Fugelso, Porter, Simich & Whiteman, Inc.*, 355 N.W.2d 138, 144 (Minn. 1984) (quotation omitted), it is only appropriate when a district court determines that (1) "the delay prejudiced the defendant" and (2) "the delay was unreasonable and inexcusable," *Modrow v. JP Foodservice, Inc.*, 656 N.W.2d 389, 394 (Minn. 2003) (quoting *Scherer v. Hanson*, 270 N.W.2d 23, 24 (Minn. 1978)). Both elements must be met. *Id.* Before ruling on a rule 41.02 motion, a district court must provide "written notice to the parties[] and [hold] a hearing." *Chisholm v. Foley*, 427 N.W.2d 278, 281 (Minn. App. 1988).

We review a dismissal under rule 41.02(a) for an abuse of discretion. *Modrow*, 656 N.W.2d at 395. A district court abuses its discretion "by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record." *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quotation omitted).

Synhaivsky does not dispute that she failed to appear for trial. But, the district court was required to provide Synhaivsky with written notice of the bank's motion to dismiss and hold a hearing on the motion before ruling on it. *Chisholm*, 427 N.W.2d at 281. By granting the bank's motion before Synhaivsky had an opportunity to respond, the district court could not have adequately considered whether her failure to appear for trial "was unreasonable and inexcusable," *Modrow*, 656 N.W.2d at 394 (quotation omitted), even if it implicitly found that the bank was prejudiced by her nonappearance.

We are not persuaded by the bank's argument that Synhaivsky was required to file a motion for a new trial or for posttrial relief before challenging the district court's dismissal order on appeal. The bank relies on *Sauter v. Wasemiller*, which held that, in general, "matters such as trial procedure, evidentiary rulings and jury instructions are subject to appellate review only if there has been a motion for a new trial." 389 N.W.2d 200, 201 (Minn. 1986). But Synhaivsky's argument relating to the motion to dismiss is not an evidentiary or trial procedure issue; indeed, because there was no trial, a motion for a new trial is, by definition, not appropriate. *See Parson v. Argue*, 344 N.W.2d 431, 431 (Minn. App. 1984) (noting that, if a trial did not occur, "a motion for a new trial is an anomaly" (quotation omitted)). Synhaivsky argues, with reference to older caselaw, that an order dismissing a case with prejudice "is a drastic form of relief" and "must be justified by the facts and circumstances peculiar to each case." *Peters v. Waters Instruments, Inc.*, 251 N.W.2d 114, 156 (Minn. 1977). We construe that as a legal argument that the district court misapplied the law in dismissing the action under rule 41.02(a). And we have held, even in a context where a motion for posttrial relief was not filed, that a district court's failure to provide notice of dismissal and an opportunity to appear at a hearing is a reversible abuse of discretion. *See Chisholm*, 427 N.W.2d at 281.

For these reasons, we reverse and remand for the district court to provide notice and hold a hearing on the bank's motion to dismiss. In deciding the motion to dismiss, the district court must consider the factors articulated in *Modrow*. *See Modrow*, 656 N.W.2d at 395.[2]

Because we reverse the district court's dismissal of Synhaivsky's complaint, it would be premature for us to address Synhaivsky's remaining argument that the district court erred by granting the bank's motion in limine. *See Reichel v. Wendland Utz, LTD*, 11 N.W.3d 602, 617 (Minn. 2024) (declining to address an issue touching on "how the

---

[2] We do not reach Synhaivsky's argument about the adequacy of notice of the trial date. That argument relates to whether her absence was reasonable or excusable. The district court has not had the opportunity to consider Synhaivsky's arguments on that issue in the first instance, but it may do so on remand.

litigation should proceed on remand" in the absence of a final judgment). We therefore decline to do so.

Reversed and remanded.