

*This opinion is nonprecedential except as provided by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
A25-1119**

Fasching Ventures LLC,
Respondent,

vs.

Integrative Health, PLLC,
Defendant,

Aaron Leet, et al.,
Appellants.

**Filed March 30, 2026
Affirmed
Larkin, Judge**

Washington County District Court
File No. 82-CV-25-723

Brandon M. Schwartz, Michael D. Schwartz, Schwartz Law Firm, Oakdale, Minnesota (for respondent)

Nicholas N. Sperling, Jonas Persson, Trepanier MacGillis Battina P.A., Minneapolis, Minnesota (for appellants)

Considered and decided by Larkin, Presiding Judge; Cochran, Judge; and Segal, Judge.*

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

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant intervenors challenge the district court's judgment for respondent landlord in an eviction action against a commercial tenant. We affirm.

FACTS

In 2021, appellant Aaron Leet and Dr. Calsey Fasching formed defendant Integrative Health PLLC. Integrative leased a commercial property in Oakdale, from respondent Fasching Ventures LLC, a real estate and management holding company. Dr. Calsey¹ and her husband owned Fasching. At the time of the underlying eviction action, Integrative was an at-will tenant pursuant to an oral month-to-month lease with Fasching.

On December 20, 2024, Fasching gave Integrative written notice to vacate the premises no later than February 1, 2025. The notice warned that if Integrative failed to do so, Fasching would commence an eviction action. The notice stated, "Please ensure that all personal property is removed and the premises are returned to the condition specified in the now expired lease agreement. Any remaining property after February 1, 2025 will be considered abandoned and may be disposed of." Fasching mailed the notice to Leet. Fasching separately served notice on Integrative via Leet.

Integrative failed to vacate, and Fasching initiated an eviction action. Fasching's complaint alleged that Integrative failed to vacate after notice. Leet and his solely owned PLLC, appellant Minnesota Allied Mental Health Professionals, moved to intervene and to

¹ We refer to Dr. Calsey by her first name because she shares a last name with a party.

stay the action. Appellants argued that intervention was proper because Leet was repeatedly mentioned in the complaint and appellants had paid monthly rent as “tenants or subtenants,” but neither of them was given notice to vacate and or served with an eviction action. Appellants argued that a stay was necessary so counterclaims and defenses necessary to a fair determination of the eviction action could be determined in a parallel civil case. Specifically, appellants argued that the following determinations were necessary: (1) whether they had a sublease with Integrative and (2) whether Fasching had properly provided notice to terminate the tenancy.

The district court allowed appellants to intervene and stayed the eviction action pending a decision on appellants’ motion for a temporary restraining order in the parallel civil case. After that motion was denied, the district court scheduled Fasching’s eviction action for trial.

At trial, Fasching and appellants appeared with counsel, presented witness testimony, and introduced exhibits as evidence. Integrative did not appear at or participate in the trial. The district court found that Integrative was a month-to-month tenant pursuant to an oral lease agreement with Fasching, that Fasching served written notice on Integrative to vacate the premises by February 1, 2025, that Integrative failed to vacate, that no current lease existed between Integrative and Fasching, and that Integrative remained in possession of the property without Fasching’s consent. The district court concluded that Fasching had proved the allegations in its complaint and ordered judgment for Fasching, including issuance of a writ of recovery of premises and order to vacate.

This appeal follows.

DECISION

“[A]n eviction is a summary proceeding to determine an individual’s possessory rights to real property.” *Nationwide Hous. Corp. v. Skoglund*, 906 N.W.2d 900, 907 (Minn. App. 2018) (citing Minn. Stat. § 504B.001, subd. 4 (2016)), *rev. denied* (Minn. Mar. 28, 2018). “On review of a district court order in an eviction action, we defer to the district court’s findings of fact, and those findings will be upheld unless they are clearly erroneous.” *Cuate v. Cuate-Dominguez*, 12 N.W.3d 742, 746 (Minn. App. 2024) (quotation omitted).

I.

Appellants contend that the district court erred by not making findings regarding their property rights as intervening parties and alleged sublessors. Under Minn. R. Civ. P. 52.01, the district court is obligated to “find the facts specifically.” They argue that the district court failed to make necessary findings regarding their property interests and that judgment cannot be enforced against them. Fasching responds that this issue is not properly raised for the first time on appeal.

Assuming without deciding that the issue is properly before us, it does not provide a basis for relief. The trial record contains evidence both alleging and refuting appellants’ purported subtenancy and possessory rights. The trial evidence sufficiently supports an implicit determination that appellants had neither. *See White Earth Hous. Auth. v. Schwabe*, 375 N.W.2d 568, 570 (Minn. App. 1985) (“Implicit in the [district] court’s holding that Schwabe violated the terms of her lease is the finding that [the landlord’s] action did not constitute a retaliatory eviction.”); *Berquam v. Berkner*, 374 N.W.2d 802,

803 (Minn. App. 1985) (disallowing a challenge under rule 52.01 raised for the first time on appeal, “particularly where the evidence sufficiently supports the result reached by the [district] court”).

II.

Appellants contend that the district court erred by failing to dismiss the case because Fasching did not comply with certain notice and filing requirements. They argue that Fasching failed to file an affidavit of personal service for the “Second Summons” in the case, that Fasching’s notice to vacate did not strictly comply with a statutory notice requirement, and that Fasching’s notice threatened unlawful ouster.

Affidavit of Personal Service

In an eviction action, “[t]he court shall issue a summons, commanding the person against whom the complaint is made to appear before the court on the day and at the place stated in the summons” and “[a] copy of the complaint must be attached to the summons.” Minn. Stat. § 504B.321, subd. 4 (2024). Minnesota Statutes section 504B.332 (2024) governs the plaintiff’s service of a summons and complaint. Generally, “[t]he summons and complaint must be served at least seven days before the date of the court appearance specified in” Minnesota Statutes section 504.321. Minn. Stat. § 504B.332, subd. 2; *see* Minn. Stat. § 504.321, subd. 4(2) (stating that the summons must include “the date, time, and location of the hearing”). The plaintiff must file an affidavit demonstrating service of the summons and complaint with the district court. Minn. Stat. § 504B.332, subds. 3(c), 4(b)(4).

Appellants do not dispute that Fasching properly served the summons and complaint directing Integrative’s appearance at the initial hearing in the eviction action and filed the necessary affidavit of service. Instead, they complain that Fasching failed to file an affidavit of service regarding the district court’s “Second Summons,” which was issued when the district court dissolved the stay in the eviction action and scheduled the case for trial, after the denial of appellants’ motion for a temporary restraining order in the parallel civil case.

Appellants argue that “[t]here is nothing in the statutory scheme that suggests that a second summons, issued pursuant to the same section authorizing the initial summons, is not subject to the mandatory requirement that the party file an affidavit of service with the court.” Appellants further argue that Fasching’s failure to file an affidavit of service for the second summons requires dismissal under Minn. Stat. § 504B.321, subd. 5 (2024), which states, “The court must dismiss and expunge the record of any action if the person bringing the action fails to comply with this section.”

Appellants’ arguments fail for two reasons. The first reason is that “[w]hen the language of a statute is clear, we apply the plain language of the statute.” *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). The mandatory service requirement in section 504B.332 refers to the “court appearance specified in section 504B.321.” Section 504B.321, in turn, refers to two court appearances. First, it refers to an “appearance . . . not less than seven nor more than 14 days from the day of issuing the summons, except as provided by subdivision 2.” Minn. Stat. § 504B.321, subd. 1(c) (2024); *see* Minn. Stat. § 504.321, subd. 4(2) (stating that the summons must include “the date, time, and location of the hearing”). Subdivision 2, in turn, refers to an expedited hearing “not less than five

days nor more than seven days from the date the summons is issued” in eviction actions based on tenant behavior that endangers safety or damages property. Minn. Stat. § 504B.321, subd. 2 (2024). Section 504B.321 clearly describes an initial appearance before the district court in response to the summons and complaint.

The record establishes that Fasching served the summons and complaint for the initial hearing in the eviction action, and filed an affidavit of service, thereby complying with section 504B.332. We will not read an additional service requirement into the statute. *See Engfer v. Gen. Dynamics Advanced Info. Sys., Inc.*, 869 N.W.2d 295, 300 (Minn. 2015) (“When a statute’s language is plain, the sole function of the courts is to enforce the statute according to its terms.”).

The second reason appellants’ argument fails is that section 504B.321, subdivision 5, on which they rely, requires the district court to “dismiss and expunge the record of any action if the person bringing the action fails to comply with *this section*.” (Emphasis added). The phrase “this section” refers to the section that contains the language, section 504B.321. Section 504B.321 does not contain any “service” requirements, except as related to an expedited eviction action, which did not occur here.² It more generally contains filing requirements. *See* Minn. Stat § 504B.321, subd. 1 (2024) (regarding filing of the complaint); *id.*, subd. 2 (regarding filing of an affidavit supporting an expedited hearing).

² Although section 504B.321, subdivision 5, is titled “Defective filing or service,” the “headnotes printed in boldface type before sections and subdivisions in editions of Minnesota Statutes are mere catchwords to indicate the contents of the section or subdivision and are not part of the statute.” Minn. Stat. § 645.49 (2024).

Appellants do not allege that Fasching failed to comply with section 504B.321. And appellants do not explain why the dismiss-and-expunge remedy for failure to comply with section 504B.321 applies to an alleged failure to comply with section 504B.332. Indeed, failure to comply with the service requirements of section 504B.332 could be grounds for dismissal based on lack of personal jurisdiction, without need to rely on section 504B.321, subdivision 5. *See Hous. & Redevelopment Auth. of St. Cloud v. Royston*, 990 N.W.2d 730, 733 (Minn. App. 2023) (“Service of process is required for a court to obtain personal jurisdiction over a defendant. If a plaintiff does not obtain a waiver or effectuate effective service of process, the district court must dismiss the action.”) (citation omitted)). Regardless, as explained above, Fasching complied with section 504B.332.

Statutory Notice Requirements

Minn. Stat. § 504B.135 (2024) governs termination of a tenancy at will and provides, “[a] tenancy at will may be terminated by either party by giving notice in writing. The time of the notice must be at least as long as the interval between the time rent is due or three months, whichever is less.” Strict statutory compliance with notice requirements for the termination of a month-to-month tenancy is generally required. *Markoe v. Naiditch & Sons*, 226 N.W.2d 289, 290 (Minn. 1975) (stating that the supreme court’s decisions regarding statutory notice of termination in a month-to-month tenancy “have consistently required strict statutory compliance”). But section 504B.135 does not specify any content requirements for the notice of termination of a tenancy at will.

Fasching provided Integrative notice dated December 20, 2024, stating that “[a]ll prior lease renewal offers are hereby rescinded,” “[t]here is no current lease agreement,”

“[t]his letter serves as formal notice that Integrative . . . must vacate the Property no later than February 1, 2025,” and “[s]hould Integrative . . . fail to vacate the premises by February 1, 2025, an eviction action will be commenced.”

Appellants argue that Fasching failed to strictly comply with the statutory notice requirements because “there is no mention of lease termination” in Fasching’s notice. Appellants rely on *Annex Properties LLC v. TNS Research International*, 712 F.3d 381 (8th Cir. 2013), for the proposition that a letter that does not mention lease termination does not strictly comply with section 504B.135.

In *Annex*, a tenant sent a letter to a landlord indicating that the premises had been vacated. 712 F.3d at 382. In determining that the letter did not comply with the statutory notice requirements of section 504B.135, the Eighth Circuit observed that the letter was not a notice, but rather a response to a landlord inquiry and that, although the letter declared that the tenant had vacated the premises, “simply vacating leased premises does not terminate a lease unless the landlord accepts surrender of the premises.” *Id.* at 385. The Eighth Circuit also observed that “the letter made no mention of lease termination.” *Id.* The court therefore concluded that the letter “did not substantially comply with a statutory notice requirement that the Supreme Court of Minnesota has repeatedly said requires reasonable exactness.” *Id.*

We do not find *Annex* persuasive here because the facts are distinguishable. *See Citizens for a Balanced City v. Plymouth Congregational Church*, 672 N.W.2d 13, 20 (Minn. App. 2003) (explaining that this court is bound by decisions of the United States Supreme Court but not the decision of any other federal court). The notice that Fasching—

as landlord—provided to Integrative on December 20, 2024—as tenant—demanding that Integrative “vacate the Property no later than February 1, 2025” and that failure to do so would result in “an eviction action” could leave no doubt that Fasching was terminating the parties’ oral, month-to-month tenancy at will. Unlike the notice in *Annex*, which was provided by a tenant and stated only that the tenant had vacated the property, Fasching’s notice adequately communicated that it was terminating the tenancy at will.

Unlawful Ouster

Appellants argue that Fasching’s notice included an “illicit threat” to “‘dispose[] of’ all remaining personal property on February 1, 2025.” Appellants ask us to

draw a line in the sand and find that a notice to terminate a tenancy at will that contains threats in direct violations of other landlord and tenant statutes, or that seeks to prevent tenants from vindicating their rights, is not in substantial compliance with the statute and, thus, ineffective as a matter of law.

Appellants suggest we do so based on contract law providing that agreements contrary to public policy are void.

We are an error correcting court whose “role is to find the law, to state it and to apply it to the facts.” *State v. McCormick*, 835 N.W.2d 498, 510 (Minn. App. 2013) (quotation omitted), *rev. denied* (Minn. Oct. 15, 2013). “[T]he task of extending existing law falls to the supreme court or the legislature, but it does not fall to this court.” *Tereault v. Palmer*, 413 N.W.2d 283, 286 (Minn. App. 1987), *rev. denied* (Minn. Dec. 18, 1987). Thus, we cannot draw the line that appellants request.

III.

Appellants contend that the district court erred by failing to make findings related to their retaliation defense. Assuming without deciding that the issue is properly before us for the first time on appeal, it does not provide a basis for relief because the trial evidence would not support a retaliation defense as a matter of law.

Minn. Stat. § 504B.285, subd. 2 (2024), permits a defendant in an eviction action to raise the defense of retaliation in “an action for recovery of premises following the alleged termination of a tenancy by notice to quit.” To succeed, generally the defendant must show by a fair preponderance of the evidence that the alleged termination was either (1) “intended in whole or part as a penalty for the defendant’s good faith attempt to secure or enforce rights under a lease or contract, oral or written, under the laws of the state or any of its governmental subdivisions, or of the United States” or (2) “intended in whole or part as a penalty for the defendant’s good faith report to a governmental authority of the plaintiff’s violation of a health, safety, housing, or building code or ordinance.” Minn. Stat. § 504B.285, subd. 2.

Appellants argue that the right they sought to enforce was the “right to continue [their] lawful month-to-month tenancy under the existing oral lease absent proper termination and compliance with statutory notice requirements.” But we have determined that Fasching’s termination was proper and in compliance with statutory notice requirements. In addition, appellants do not cite authority indicating there is a protected right to maintain a month-to-month at-will tenancy under the lease or under the law. To the contrary, either party in a tenancy at will is expressly permitted to terminate the tenancy

“by giving notice in writing,” so long as the notice is “at least as long as the interval between the time rent is due or three months, whichever is less.” Minn. Stat. § 504B.135. Thus, appellants’ retaliation theory is not cognizable under Minn. Stat. § 504B.285, subd.

2.

Affirmed.