

*This opinion is nonprecedential except as provided by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
A25-1360**

Troy Fischer,
Appellant,

vs.

Bruce G Karevold, et al.,
Respondents.

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

Clay County District Court
File No. 14-CV-24-2657

Michelle E. Weinberg, Larry M. Wertheim, Kennedy & Graven, Chartered, Minneapolis,
Minnesota (for appellant)

David C. Piper, Andrew D. Cook, Ohnstad Twichell, P.C., West Fargo, North Dakota (for
respondents)

Considered and decided by Ross, Presiding Judge; Bratvold, Judge; and Florey,
Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

Appellant-purchaser argues that the district court erred by determining that
respondent-sellers terminated their contract for deed with appellant, claiming that

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

respondents waived any right to terminate by accepting payments from appellant after serving the statutory notice of termination. We affirm.

FACTS

In November 2017, appellant Troy Fischer and respondents Bruce G Karevold and Jolene M. Karevold entered into a contract for deed (the contract). The Karevolds agreed to sell property to Fischer for \$160,000 and provide financing. The contract included a balloon payment due on November 30, 2018. Fischer retained an option to renew the contract for 12 months, requiring a final balloon payment on December 1, 2019.

Fischer tendered all monthly payments in 2018. He then extended the contract. Although Fischer made the monthly payments in 2019, he did not tender the final balloon payment. Thereafter, Fischer continued to live on the property. The Karevolds continued to accept monthly payments from Fischer, believing that they were rent payments.

Upon learning that they were required to formally terminate the contract, the Karevolds initiated legal action. On June 1, 2024, Fischer was served with notice of termination of the contract, describing the default as “failure to make installment payments totaling \$134,907.40.” Fischer was notified that the contract would terminate 60 days after service of the notice. After he was served with the notice, Fischer delivered monthly payments on June 1 and July 1, 2024. The Karevolds accepted the payments.

On July 29, 2024, Fischer sued the Karevolds, alleging that they breached the contract because he “made all payments due under the [c]ontract . . . as subsequently modified by the parties.” The same day, Fischer moved for a temporary restraining order (TRO) to prevent the Karevolds from terminating the contract. Fischer asserted in his

memorandum of law in support of the TRO motion that, by accepting the payments after service of the notice, the Karevolds waived any right to terminate the contract.

On August 1, 2024, the district court granted the motion for a TRO. The district court ordered: “The parties are temporarily restrained from terminating the Contract for Deed . . . or taking any further action, until a hearing can be held on [Fischer]’s motions.” The TRO was vacated on April 15, 2025.

On September 30, 2024, the Karevolds filed an answer and counterclaim, alleging that Fischer breached the contract because he failed to tender the balloon payment.

The district court held a court trial to address which party breached the contract. Bruce Karevold testified that the parties never agreed to modify the contract. He also testified that it would have been “wonderful” if Fischer had tendered a cashier’s check, but Fischer never provided proof that he was able to cure the default. Fischer testified that he believed that the contract continued on a yearly basis and the Karevolds could not “suddenly ask for a balloon payment, in the middle of a term.” He also testified that he was unable to make the payment during the cure period.

On July 2, 2025, the district court entered judgment in favor of the Karevolds, determining that Fischer did not make the balloon payment as required by the contract. The district court determined that, although Fischer insisted that he had the ability to cure because the TRO extended his 60-day deadline, the TRO actually allowed Fischer an opportunity to present evidence regarding his attempts to cure and his financial ability to satisfy the terms of the contract. The district court found that Fischer never showed that he was able to cure the default. The district court determined that the contract was

terminated, granted the Karevolds' counterclaim for breach of contract, and ordered Fischer to vacate the property. This appeal followed.

DECISION

Fischer argues that the Karevolds' acceptance of his two payments during the statutory 60-day cure period constitutes a waiver of the termination. *See* Minn. Stat. § 559.21, subd. 2a (2024) (providing that seller may terminate contract by serving notice specifying default conditions and stating that contract will terminate 60 days after service of notice unless purchaser cures). Fischer admits, however, that this argument was not raised at trial. The Karevolds argue that, because Fischer did not present this argument to the district court, we should decline to consider it. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating reviewing court must generally consider only issues that were presented to and considered by district court). We agree.

Fischer raised the waiver argument in his motion for a TRO. But he is not appealing from the TRO. Fischer claims that an exception to *Thiele* should apply because the argument appears in the record and we can address it “in the interests of justice.” *See Blakey v. Jones*, 997 N.W.2d 67, 72 (Minn. 2023) (stating that generally litigants are bound by theories presented below, but an appellate court has authority to review any action “as the interest of justice may require”). However, there is no dispute that Fischer did not tender the balloon payment as required by the contract. And he also failed to present any evidence that he was able to cure the default at any point during the pendency of the matter. We do not agree that the interests of justice require us to deviate from *Thiele* and consider this argument. Because Fischer did not raise this argument and allow the district

court an opportunity to rule on it when deciding the merits of the dispute, we decline to consider it.¹

Fischer also argues that the district court improperly interfered with his statutory right to cure by issuing a TRO that prevented the parties from taking any action. The TRO “temporarily restrained [the parties] from terminating the Contract for Deed . . . or taking any further action, until a hearing.” Fischer apparently believes that the taking-any-further-action language in the TRO that he requested precluded him from curing the default. But the TRO was not in effect during the 60-day cure period (notice was served on June 1, 2024, and the TRO was entered on August 1, 2024). As the district court stated, the TRO allowed Fischer the opportunity to present evidence regarding his attempts to cure and his financial ability to satisfy the terms of the contract. But Fischer admitted at trial that he was unable to make the full payment during the cure period. And Bruce Karevold testified that Fischer’s payment would have been accepted had Fischer tendered it. The district court’s language in the TRO did not prevent Fischer from curing the default.

Fischer has not demonstrated that the district court erred in determining that the contract was terminated.

Affirmed.

¹ The Karevolds argue that we can affirm the district court’s judicial determination of termination that was entered when the district court granted their breach-of-contract counterclaim. We need not address this claim, however, having decided that Fischer forfeited his waiver argument on appeal.