

STATE OF MINNESOTA
IN COURT OF APPEALS

Backroads Development LLC,
Respondent,

vs.

Felicia Maria Munguia,
Appellant.

**SPECIAL
TERM
ORDER¹**
A26-1001

Considered and decided by Larkin, Presiding Judge; Reyes, Judge; and Rasmusson, Judge.

**BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND FOR THE
FOLLOWING REASONS:**

This appeal was filed on June 11, 2026. According to the notice of appeal, appellant Felicia Munguia seeks review of a June 8, 2026 eviction judgment. Appellant filed a certificate of service with the notice of appeal stating that the notice of appeal was served on counsel for respondent Backroads Development LLC by email on June 11, 2026.

On June 24, 2026, respondent filed a motion to dismiss the appeal. Appellant did not file a response to the motion.

¹ Pursuant to Minn. R. Civ. App. P. 136.01, subd. 1(c), this order is nonprecedential, except as law of the case, res judicata, or collateral estoppel.

A party who feels aggrieved by a judgment in an eviction action may appeal within 15 days as provided for civil actions in district court. Minn. Stat. § 504B.371, subd. 2 (2024). A notice of appeal must be filed with the clerk of the appellate courts and served on the adverse party or parties within the appeal period. Minn. R. Civ. App. P. 103.01, subd. 1. Service on a party represented by an attorney must be made on the attorney. Minn. R. Civ. App. P. 125.02. The failure to timely serve the notice of appeal on the adverse party is a jurisdictional defect requiring dismissal. *Hansing v. McGroarty*, 433 N.W.2d 441, 442 (Minn. App. 1988), *rev. denied* (Minn. Jan. 25, 1989).

Respondent contends that we must dismiss this appeal because appellant did not properly serve the notice of appeal on counsel for respondent within the appeal period.

The register of actions indicates that the district court entered an eviction judgment against appellant on June 8, 2026. The time to file and serve the notice of appeal expired on June 23, 2026. *See* Minn. Stat. § 504B.371, subd. 2; Minn. R. Civ. App. P. 103.01, subd. 1.

Respondent acknowledges that appellant served the notice of appeal on respondent's counsel by email on June 11, 2026. But respondent argues that appellant's service of the notice of appeal by email was improper because respondent's counsel did not consent to email service.

Service of the notice of appeal may be "electronic by use of the appellate courts' electronic filing system if required or permitted by court order, personal, or by United States Mail." Minn. R. Civ. App. P. 125.03. "Service by facsimile or other electronic

means other than as authorized or required by an order of the Minnesota Supreme Court is allowed only with the consent of the party to be served, and is effective upon receipt.” Minn. R. Civ. App. P. 125.03.

Because service by email is not listed in Minn. R. Civ. App. P. 125.03 as a proper method of service, it is service by “other electronic means” under that rule and is effective only if the recipient consents to email service. In addition, an advisory committee comment to rule 125.03 states that service by email is permitted “only where the party to be served has agreed to it for the type of document involved.” Minn. R. Civ. App. P. 125.03 2008 advisory comm. cmt. Because respondent’s counsel did not consent to email service, appellant’s service of the notice of appeal on respondent’s counsel by email on June 11, 2026, was not effective service. And because appellant has not established that appellant properly served the notice of appeal on respondent’s counsel within the appeal period, we must dismiss this appeal. *See Hansing*, 433 N.W.2d at 442.

Appellant filed a motion with the notice of appeal requesting recusal of the district court judge assigned to the underlying eviction case. Because this appeal is being dismissed, we deny appellant’s motion as moot.

IT IS HEREBY ORDERED:

1. Respondent’s motion to dismiss is granted.
2. This appeal is dismissed.
3. Appellant’s motion for recusal of the assigned district court judge is denied as moot.

4. The clerk of the appellate courts shall provide copies of this order to the Honorable Michael J. Mayer, the self-represented appellant, counsel for respondent, and the district court administrator.

Dated: July 21, 2026

BY THE COURT

A handwritten signature in blue ink, reading "Michelle A. Larkin". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Michelle A. Larkin
Presiding Judge