



Not Reported in N.W.2d  
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because respondent failed to register the house with the City of Alexandria as a rental unit, her failure to pay rent cannot be a ground for eviction. We reverse.

### FACTS

NOTICE: THIS OPINION IS DESIGNATED AS  
UNPUBLISHED AND MAY NOT BE CITED  
EXCEPT AS PROVIDED BY MINN. ST. SEC.  
480A.08(3).

Court of Appeals of Minnesota.  
Elizabeth BEAUMIA, Respondent,  
v.  
Mark EISENBRAUN, Defendant,  
Denise Eisenbraun, Appellant.  
**No. A06-1482.**

Sept. 4, 2007.

Douglas County District Court, File No. C5-06-824.

Elizabeth Beaumia, Alexandria, MN, pro se respondent.  
[Sherry Ann Bruckner](#), Legal Services of Northwest  
Minnesota, Alexandria, MN, for appellant.

Considered and decided by [HUDSON](#), Presiding Judge;  
[LANSING](#), Judge; and [WILLIS](#), Judge.

### UNPUBLISHED OPINION

[WILLIS](#), Judge.

\*1 Appellant challenges the district court's order evicting her from a house owned by respondent, arguing that

Beginning in June 2005, defendant Mark Eisenbraun and appellant Denise Eisenbraun and their children lived in a house at 603 Sixth Avenue East in Alexandria under an oral lease agreement by which the Eisenbrauns paid \$500 per month in rent. On October 17, 2005, respondent Elizabeth Beaumia purchased the property, and the parties orally agreed to continue the lease on the same terms.

An Alexandria city ordinance, in effect at all relevant times, makes it unlawful to lease any residential property unless it has been registered with the city as a rental unit and a registration fee has been paid. *See* Alexandria, Minn., Code of Ordinances § 5.08, subds. 3(1), 5. The ordinance provides that “[a]ny written or oral agreement to rent ... any Rental Unit that is in violation of this Ordinance is illegal as a matter of law.” *Id.*, subd. 15(2). The record suggests that the house was not registered with the city when Beaumia bought it; she did not register it as a rental unit until May 23, 2006, and did not pay the registration fee until July 19, 2006.

From November 2005 through April 2006, the Eisenbrauns made their monthly rent payments. In May, the Eisenbrauns told Beaumia that they did not have the money to pay rent. On June 16, 2006, Beaumia told the Eisenbrauns that they needed to leave the house and ten days later told them that they must leave by June 30, 2006.

When the Eisenbrauns did not move out of the house, Beaumia commenced an action on July 10, seeking the

Eisenbrauns' eviction, based solely on their failure to pay rent. Following a hearing, the district court ordered eviction, concluding that because Beaumia's action was to recover possession of the house, not to collect rent, her failure to properly register the house as a rental unit was irrelevant to whether she had a right to recover possession. This appeal follows.

### DECISION

Appellant argues that the district court erred by ordering her eviction. [Minnesota Statutes, section 504B.301 \(2006\)](#) provides that an eviction action may be brought against a person who “unlawfully detains or retains possession of real property.” An eviction action is a summary proceeding to determine the present possessory rights to property. See [Amresco Residential Mortgage Corp. v. Stange](#), 631 N.W.2d 444, 445-46 (Minn.App.2001) (noting that an eviction action, formerly known as an unlawful-detainer action, is a summary proceeding). A plaintiff must plead and prove facts that show that the defendant is in unlawful possession of the property. See [Cloverdale Foods of Minn., Inc. v. Pioneer Snacks](#), 580 N.W.2d 46, 49 (Minn.App.1998) (discussing unlawful-detainer action). Thus, generally, the only issue for trial is whether the allegations of the complaint are true. *Id.*

\*2 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. See [Minneapolis Cmty. Dev. Agency v. Smallwood](#), 379 N.W.2d 554, 555 (Minn.App.1985) (discussing the standard of review in an unlawful-detainer action), *review denied* (Minn. Feb. 19, 1986). But we do not defer to the district court on a purely legal issue. [Frost-Benco Elec. Ass'n v. Minn. Pub. Utils. Comm'n](#), 358 N.W.2d 639, 642 (Minn.1984).

Appellant argues that because Beaumia failed to register

the house as a rental unit until May 23, 2006, the lease agreement between the parties made in October 2005 was illegal and that, therefore, appellant owed Beaumia no rent. [Minnesota Statutes, section 504B.161, subdivision 1\(3\) \(2006\)](#), provides that as an implied condition of every residential lease, a landlord covenants “to maintain the premises in compliance with the applicable health and safety laws of the state ... and of the local units of government.” The ordinance at issue here was enacted to “promote the public health, safety, and welfare of the community at large and the residents of rental units.” Alexandria, Minn., Code of Ordinances § 5.08, subd. 1.

A lessor's compliance with a covenant imposed by law and a lessee's duty to perform under a lease agreement are mutually dependent. See [Fritz v. Warthen](#), 298 Minn. 54, 58, 213 N.W.2d 339, 341 (1973). Here, Beaumia acquired the house on October 17, 2005, but did not register it with the city as a rental unit until May 23, 2006. Thus, the earliest that Beaumia was in compliance with the ordinance was May 23, and before that date, the Eisenbrauns had no obligation to pay rent.

When an eviction action is based solely on a failure to pay rent, if a tenant's duty to pay rent was excused, the eviction action fails. In [Mac-Du Props. v. LaBresh](#), 392 N.W.2d 315, 316-17 (Minn.App.1986), *review denied* (Minn. Oct. 29, 1986), the landlord failed to acquire a “certificate of occupancy” from the city as required by an ordinance. This court determined that the landlord's compliance with the ordinance and the tenant's duty to pay rent were mutually dependent. *Id.* at 319. Thus, because the tenant was under no duty to pay rent, and because the action was based solely on the tenant's failure to pay rent, the tenant's eviction was improper. *Id.*

Here, Beaumia's complaint is based solely on her allegation that the Eisenbrauns failed to pay rent after April 2006. The record shows that the Eisenbrauns paid

rent to Beaumia from November 2005 through April 2006. But before May 23, 2006, the Eisenbrauns had no rent obligation. Because Beaumia was entitled to rent only after May 23, but she had already received payments for six months from the Eisenbrauns, they owed no rent when the eviction action was brought. Therefore, because Beaumia's complaint alleges only the failure to pay rent, and because the Eisenbrauns' duty to pay rent was excused by virtue of Beaumia's failure to register the house with the city, the district court erred by ordering the Eisenbrauns' eviction.<sup>FN1</sup> See [Mac-Du](#), 392 N.W.2d at 319.

<sup>FN1</sup>. Although the issue is not addressed by the parties, we note that appellant's brief represents that they have vacated the property. But nothing in the record shows that the Eisenbrauns have left the property and, therefore, nothing indicates the circumstances of any vacation. Compare [Lanthier v. Michaelson](#), 394 N.W.2d 245, 246 (Minn. App. 1986) (concluding that because appellant left the property voluntarily, appeal was moot), review denied (Minn. Nov. 26, 1986), with [Real Estate Equity Strategies LLC v. Jones](#), 720 N.W.2d 352, 355 (Minn.App.2006) (noting that while an appeal is pending, when an appellant vacates property involuntarily, an appeal from an eviction action is not moot). We therefore conclude that the appeal is not moot.

**\*3Reversed.**

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