

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

CENTRIC PARTNERS LLC,
Respondent,

v.

WORKIE WUBUSHET, d.b.a. SABA
ETHIOPIAN CUISINE, SABA
TEKEGIORGIS,

Appellants,

and

ALL OTHER OCCUPANTS,

Defendants.

No. 80247-0-I

DIVISION ONE

UNPUBLISHED OPINION

SMITH, J. — Workie Wubushet¹ appeals the trial court's order issuing a writ of restitution directing the county sheriff to evict her from a rental property and restore possession of the property to Centric Partners LLC. She claims the trial court erred by finding her liable for unlawful detainer because the landlord failed to give her the required notice before filing the unlawful detainer action against her. Because the lease was for a fixed term and terminated upon its expiration, no notice was required. Accordingly, we affirm.

¹ Wubushet passed away while the appeal was pending. Her daughter, Saba Tekegiorgis, was substituted as the party in interest.

FACTS

Wubushet, doing business as SABA Ethiopian Cuisine, leased commercial property located at 110 12th Avenue, Seattle, Washington. The lease provided that “the term of this [l]ease shall expire May 31, 2019.” During the lease term, Centric Partners purchased the property. Wubushet remained as the tenant.

On May 31, 2019, Wubushet failed to vacate the premises. On June 10, the property management company sent Wubushet notice that it had been removed from management of the property. On June 15, Wubushet sent a letter to counsel for Centric Partners indicating that she was leaving June and July rent checks with counsel because she did not know where to send them.

On June 21, 2019, Centric Partners filed a complaint against Wubushet for unlawful detainer. On July 1, the parties appeared for a show cause hearing.² Wubushet claimed that the lease did not expire until July 1, 2019, and that Centric Partners failed to give notice before terminating the lease. She cited a provision in the lease stating that the lease term began on July 1, 2016, for a term of 36 months and the landlord was required to give 60 days’ notice before terminating the lease.

The court found that the lease expired on May 31, 2019, and Wubushet failed to vacate at the expiration of the lease term. Thus, the court concluded she was liable for unlawful detainer pursuant to RCW 59.12.030 and issued a writ of restitution directing the county sheriff to restore possession of the property to

² The order entered on July 1, 2019, following the hearing mistakenly indicates the hearing was on July 3, 2019.

Centric Partners. The court also ordered Wubushet to pay rent prorated from June 1 until she vacated, in addition to court costs and attorney fees. The court entered judgment for Centric Partners in the amount of \$4,933.35.

Wubushet appeals.

DISCUSSION

Wubushet claims the trial court erred by allowing Centric Partners to proceed with an unlawful detainer action without complying with the lease provisions requiring 60 days' notice to terminate the lease.

The interpretation of a lease is a question of law we review de novo. Duvall Highlands, LLC v. Elwell, 104 Wn. App. 763, 771 n.18, 19 P.3d 1051 (2001). Under the unlawful detainer act, chapter 59.12 RCW, a tenant unlawfully detains property “[w]hen he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her.” RCW 59.12.030(1). To regain possession of the property, the landlord may file an unlawful detainer action against the tenant and request the court to issue a writ of restitution restoring the property to the landlord. RCW 59.12.090. The statute provides that notice is not required to terminate the tenancy when a lease for a fixed period expires: “When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period.” RCW 59.12.030(1).

Here, the term of the tenancy was set forth in the lease as follows:

b. Lease Commencement Date. The term of this Lease shall be for a period of 36 months and shall commence on July 1, 2016 or such earlier or later date as provided in Section 3 (the "Commencement Date"). Tenant shall have no right or option to extend this Lease, unless otherwise set forth in a rider attached to this Lease (e.g., Option to Extend Rider, CBA Form OR).

c. Lease Termination Date. The term of this Lease shall expire at midnight on May 31, 2019 or such earlier or later date as provided in Section 3 (the "Termination Date"). *LANDLORD MAY TERMINATE THIS LEASE WITH A SIXTY(60) DAY WRITTEN NOTICE TO TERMINATE THE LEASE.*

(Boldface omitted.)

Wushubet does not dispute that the lease was for a fixed term. Accordingly, it terminated on the expiration date, and no notice was required under the statute. Wubushet challenges the trial court's finding that the lease expired on May 31, 2019, contending the lease did not expire until July 1, 2019. Thus, she contends she did not unlawfully detain the property by failing to vacate by May 31. She also contends the lease required that the landlord give 60 days' notice before terminating the lease.

"[W]hat controls in a lease is the intent of the parties at the time of its execution, and the plain meaning of the language used." Seattle-First Nat'l Bank v. Westlake Park Assocs., 42 Wn. App. 269, 272, 711 P.2d 361 (1985) (alteration in original) (quoting Wash. Hydroculture, Inc. v. Payne, 96 Wn.2d 322, 328, 635 P.2d 138 (1981)). Leases are contracts, and the rules of construction that apply to contracts apply to leases. Seattle-First Nat'l Bank, 42 Wn. App. at 272. To interpret the meaning of a contract's terms, we determine the intent of the parties by viewing the contract as a whole. Adler v. Fred Lind Manor, 153 Wn.2d 331,

351, 103 P.3d 773 (2004). “It is a well-known principle of contract interpretation that ‘specific terms and exact terms are given greater weight than general language.’” Adler, 153 Wn.2d at 354-55 (quoting RESTATEMENT (SECOND) OF CONTRACTS § 203(3) (AM. LAW INST. 1981)). “We must construe a contract to give meaning to every term.” Diamond B. Constructors, Inc. v. Granite Falls Sch. Dist., 117 Wn. App. 157, 165, 70 P.3d 966 (2003).

The trial court concluded the lease expired on May 31, 2019, noting “it says very clearly on page one the termination date is May 31st, 2019.” Wubushet contends it expired on July 1, 2019, pointing to language that the lease term “shall be for a period of 36 months and shall commence on July 1, 2016.” Wubushet claims these “ambiguities” should be construed against the landlord and in favor of the tenant. The lease plainly states “the term of this [l]ease shall expire at midnight on May 31, 2019.” It is not ambiguous. Rather, this language conflicts with language in the lease commencement date provision. When contract terms conflict, the specific term controls over the general. Adler, 153 Wn.2d at 354-55. Here, the term that specifically identifies the lease expiration date as May 31, 2019, controls over the general terms stating that the lease term is for a period of 36 months. Thus, because the lease was for a fixed term and expired on May 31, no notice was required to terminate the tenancy on that date. RCW 59.12.030(1).

Wubushet contends that the lease terms required Centric Partners to give 60 days’ notice to terminate the lease. She points to the following language quoted above in the “Lease Termination Date” provision: “*LANDLORD MAY TERMINATE THIS LEASE WITH A SIXTY(60) DAY WRITTEN NOTICE TO TERMINATE THE LEASE.*”

Wubushet contends this is not an early termination clause because it does not contain the word “early,” and therefore the 60 days’ notice is always required before the landlord can terminate the lease. We disagree.

Because the lease by its own terms expires on May 31, 2019, it terminates on that date as a matter of law without any action by the landlord. RCW 59.12.030(1); Carlstrom v. Hanline, 98 Wn. App. 780, 786-87, 990 P.2d 986 (2000). Thus, by providing that the landlord “may terminate” this lease with 60 days’ notice, this provision allows the landlord the option of terminating the lease before it expires on its own so long as the landlord gives notice. As discussed above, the lease terminated May 31, 2019, on its expiration date. Accordingly, this provision does not apply, and no notice was required.

Wubushet also contends the following lease provisions required Centric Partners to give notice:

20. **DEFAULT.** The following occurrences shall each constitute a default by Tenant (an “Event of Default”):
 - a. **Failure To Pay.** Failure by Tenant to pay any sum, including Rent, due under this Lease following five (5) days’ notice from Landlord of the failure to pay.

(Boldface omitted.)

21. **REMEDIES.** Landlord shall have the following remedies upon an Event of Default. Landlord’s rights and remedies under this Lease shall be cumulative, and none shall exclude any other right or remedy allowed by law.
 - a. **Termination of Lease.** Landlord may terminate Tenant’s interest under the Lease, but no act by Landlord other than notice of termination from Landlord to Tenant shall terminate this Lease. The Lease shall terminate on the date specified in the notice of termination. Upon termination of this Lease, Tenant will remain liable to Landlord for damages in an amount equal to the rent and other sums that would have

been owing by Tenant under this Lease for the balance of the Lease term, less the net proceeds, if any, of any re-letting of the Premises by Landlord subsequent to the termination, after deducting all of Landlord's Reletting Expenses (as defined below). Landlord shall be entitled to either collect damages from Tenant monthly on the days on which rent or other amounts would have been payable under the Lease, or alternatively, Landlord may accelerate Tenant's obligations under the Lease and recover from Tenant

(Boldface omitted.)

The plain language of these provisions is clear that they only apply when the tenant is in default, giving the landlord the option to terminate the lease early in the event of a default. But Centric Partners did not allege Wubushet was in default on May 31 for failing to pay rent, as Wubushet claims. Rather the complaint alleges, "The Defendant is in default for failure to vacate the premises on May 31, 2019, the end of the lease term." The only rent Centric Partners sought was rent that "accrue[d] during the Defendant's continued possession of the [p]remises." Thus, the notice requirements in the default provisions cited by Wubushet do not apply.

Finally, Wubushet claims for the first time on appeal that a "holdover" clause in the lease applied to convert her tenancy into a month-to-month tenancy, the termination of which is subject to statutory notice requirements. We generally do not consider issues raised for the first time on appeal. RAP 2.5(a); Kitsap County Consol. Hous. Auth. v. Henry-Levingston, 196 Wn. App. 688, 385 P.3d 188 (2016). "This rule encourages full development of issues before the trial court and helps preserve judicial economy." Kitsap County Consol. Hous. Auth., 196 Wn. App. at 707. Here, the trial court had no opportunity to address the applicability of the

lease's holdover provision, and Wubushet offers no argument why we should consider this argument for the first time on appeal. Thus, the issue has been waived, and we decline to consider it.

We grant Centric Partner's request for attorney fees on appeal. As the prevailing party, Centric Partners is entitled to attorney fees as provided by the lease.

We affirm.



WE CONCUR:




