

1 **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

Court of Appeals of New Mexico
Filed 4/27/2026 7:07 AM

2 **T & C MANAGEMENT,**

3 Plaintiff-Appellee,



Mark Reynolds

4 v.

No. A-1-CA-42025

5 **JERRY SMITH,**

6 Defendant-Appellant.

7 **APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY**

8 **Lisa Chavez Ortega, District Court Judge**

9 Vance Chavez & Associates, LLC

10 James A. Chavez

11 Albuquerque, NM

12 for Appellee

13 Jerry Smith

14 Rio Rancho, NM

15 Pro Se Appellant

16 **MEMORANDUM OPINION**

17 **WRAY, Judge.**

18 {1} Defendant appeals from the district court's judgment for restitution, which
19 terminated Defendant's tenancy and restored the premises to Plaintiff. We issued a
20 calendar notice proposing to affirm. Defendant has filed a memorandum in
21 opposition and Plaintiff has filed a memorandum in support, both of which we have
22 duly considered. Unpersuaded, we affirm.

1 {2} In his memorandum in opposition, Defendant continues to argue that the
2 district court erred by entering a judgment for restitution because it ignored the
3 Tenant-Based Rental Agreement (TBRA) and that his rental agreement should have
4 been renewed for another year instead of month-to-month. [MIO 1] In our calendar
5 notice, we proposed to affirm on the basis that the terms set forth in the rental
6 agreement between Plaintiff and Defendant conformed with the TBRA contract.
7 [CN 3-5] Defendant argued that the thirty-day no-cause notice was insufficient. This
8 Court proposed, relying on *Carol Rickert & Assocs. v. Law*, 2002-NMCA-096, 132
9 N.M. 687, 54 P.3d 91, that because the initial term under the rental agreement had
10 ended, he continued his tenancy on a month-to-month basis, and chose not to renew
11 the lease after the expiration of his rental assistance subsidy, Plaintiff did not need
12 to show good cause to terminate his lease. [CN 6]

13 {3} Defendant has attempted to distinguish *Law* by arguing that it “involved a
14 private tenancy without subsidy-based regulatory obligations.” [MIO 1] Defendant
15 again points to the TBRA and the provision stating that “[l]eases may only be
16 terminable for cause” and that “[t]his term supersedes any other written agreement
17 between the landlord and the tenant.” We are unpersuaded. [*Id.*]

18 {4} *Law* clearly states that the “appeal involves a federal government rent-subsidy
19 assistance program commonly known as the Section 8 housing program.” 2002-
20 NMCA-096, ¶ 2. Because *Law* addressed an issue regarding a subsidy-based rental

1 agreement, we conclude that it is applicable to the facts of the instant appeal. As we
2 explained in our calendar notice, Plaintiff did not seek to terminate the initial term
3 set forth in the rental agreement and offered Defendant a chance to renew his
4 application to continue residing at the property, which Defendant declined. [CN 6]
5 Defendant again has not pointed to any authority to support his proposition that
6 Plaintiff should have extended the rental agreement for an additional year, except to
7 the TBRA. [MIO 1] *See Hennessy v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M.
8 754, 955 P.2d 683 (“Our courts have repeatedly held that, in summary calendar
9 cases, the burden is on the party opposing the proposed disposition to clearly point
10 out errors in fact or law.”).

11 {5} Finally, Defendant raises an issue that was not presented in the docketing
12 statement, which we construe as a motion to amend the docketing statement. This
13 Court will grant such a motion to include additional issues if the motion (1) is timely,
14 (2) states all facts material to a consideration of the new issues sought to be raised,
15 (3) explains how the issues were properly preserved or why they may be raised for
16 the first time on appeal, (4) demonstrates just cause by explaining why the issues
17 were not originally raised in the docketing statement, and (5) complies in other
18 respects with the appellate rules. *See State v. Rael*, 1983-NMCA-081, ¶¶ 7-8, 10-11,
19 14-17, 100 N.M. 193, 668 P.2d 309.

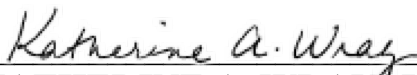
1 {6} Defendant asserts that the “dwelling unit was deemed *substandard* by
2 municipal Code Enforcement” due to the presence of mold. [MIO 1-2] This
3 determination preceded the termination of Defendant’s housing voucher and
4 Plaintiff’s notice to terminate the rental agreement, which raised a “legal question as
5 to whether enforcement was pursued while statutory habitability remedies remained
6 unresolved.” [MIO 2] We understand Defendant to argue that Plaintiff’s termination
7 of the rental agreement was in retaliation for Defendant complaining about the
8 conditions of the unit including the presence of mold. *See* NMSA 1978, § 47-8-
9 39(A) (1999) (prohibiting a landlord from retaliating against a resident by bringing
10 an action for possession because the resident has complained to a government
11 agency about code violations within the previous six months).

12 {7} The record proper indicates that Defendant raised the issue before the district
13 court that the implied warranty of habitability had been breached before Plaintiff
14 initiated the termination proceedings. [RP 14-17, 64-67] Defendant argued that the
15 “termination process was initiated by [the Supportive Housing Coalition of New
16 Mexico] and [Plaintiff] following tenant complaints of an unsafe environment.”
17 [RP 64] The district court’s order, however, found that “Defendant failed to prove
18 by a preponderance of the evidence that Plaintiff’s termination of the agreement was
19 in retaliation for Defendant’s complaints regarding the condition of the dwelling
20 unit.” [RP 122, ¶ 6] Defendant has not provided us with any additional facts, law, or

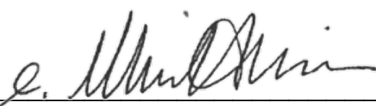
1 argument to demonstrate that the district court erred in its finding that Plaintiff's
2 termination of the rental agreement was not retaliatory. *See Corona v. Corona*, 2014-
3 NMCA-071, ¶ 28, 329 P.3d 701 (“This Court has no duty to review an argument that
4 is not adequately developed.”); *Muse v. Muse*, 2009-NMCA-003, ¶ 72, 145 N.M.
5 451, 200 P.3d 104 (“We will not search the record for facts, arguments, and rulings
6 in order to support generalized arguments.”). Accordingly, we deem this issue
7 nonviable and deny Plaintiff’s motion to amend. *See State v. Moore*, 1989-NMCA-
8 073, ¶¶ 36-51, 109 N.M. 119, 782 P.2d 91 (stating that this Court will deny motions
9 to amend that raise issues that are not viable), *superseded by rule on other grounds*
10 *as recognized in State v. Salgado*, 1991-NMCA-044, ¶ 2, 112 N.M. 537, 817 P.2d
11 730.

12 {8} For the reasons stated in our notice of proposed disposition and herein, we
13 affirm.

14 {9} **IT IS SO ORDERED.**

15 
16 **KATHERINE A. WRAY, Judge**

17 **WE CONCUR:**

18 
19 **J. MILES HANISEE, Judge**

20 
21 **ZACHARY A. IVES, Judge**