

28 Fed.Appx. 611, 2002 WL 237740 (C.A.8 (Minn.))
(Not Selected for publication in the Federal Reporter)
(Cite as: 28 Fed.Appx. 611, 2002 WL 237740 (C.A.8 (Minn.)))

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This case was not selected for publication in the Federal Reporter.

Not for Publication in West's Federal Reporter See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also Eighth Circuit Rules 28A, 32.1A. (Find CTA8 Rule 28A and Find CTA8 Rule 32.1A)

United States Court of Appeals,
 Eighth Circuit.
 ALL-LUMINUM PRODUCTS, INC., Appellant,
 v.
 WINTHROP RESOURCES CORPORATION, Appellee.

No. 01-2299.
 Submitted Feb. 13, 2002.
 Filed Feb. 20, 2002.

Lessee of computer equipment brought action against lessor, disputing method of calculating **interim rent** due for period between acceptance and installation of equipment. The United States District Court for the District of Minnesota, [James M. Rosenbaum](#), J., granted lessor's motion for summary judgment, and lessee appealed. The Court of Appeals held that computer rental contract was not ambiguous.

Affirmed.

West Headnotes

Bailment 50  **20**

50 Bailment

50k20 k. Compensation of Bailor for Use of Property. [Most Cited Cases](#)

Under Minnesota law, computer rental contract was not ambiguous in its description of rent as a flat monthly fee and prorated **interim rent** based on the flat monthly fee, rather than described rental fees in terms of principal and interest, and thus **interim rent**, charged for the period between acceptance and installation of the computer equipment, was properly calculated.

***611** Appeal from the United States District Court for the District of Minnesota.

***612** Before [McMILLIAN](#), [FAGG](#), and [LOKEN](#), Circuit Judges.

[UNPUBLISHED]

PER CURIAM.

****1** All-Luminum Products, Inc. (All-Luminum) leased computer equipment and software from Winthrop Resources Corporation (Winthrop). The contract provided for monthly payments over sixty months, beginning once all the equipment was installed, and prorated **interim rent** between the date an item of equipment was accepted and the date all equipment under the contract was installed. Installation took place gradually over one year. After paying the **interim rent** Winthrop charged, All-Luminum sued Winthrop, disputing the method of calculating **interim rent** and claiming Winthrop overcharged All-Luminum. All-Luminum argues the monthly payments include principal and 7.95% interest and that **interim rent** should repay interest only. Winthrop argues the terms of the **lease** provide a flat monthly fee and that **interim rent** is prorated based on the flat monthly fee. According to the contract, Minnesota law controls. The district court,^{FN*} sitting in diversity, granted summary judgment to Winthrop, finding the contract was not ambiguous, rent was described as a flat monthly fee, not principal and interest, and the **interim rent** was properly calculated based on the flat monthly fee. The district court held that

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All-Luminum's argument that the **lease** repaid interest and principal required reliance on parole evidence, which was inadmissible because the contract was unambiguous. The district court also awarded Winthrop attorney's fees. All-Luminum now appeals. Having reviewed the record de novo and considered the facts and all reasonable inferences that can be drawn from them in the light most favorable to All-Luminum, we conclude the district court correctly decided that there are no genuine issues of material fact. *Carroll v. Pfeffer*, 262 F.3d 847, 849 (8th Cir.2001).

FN* The Honorable James M. Rosenbaum,
United States District Judge for the District
of Minnesota.

Like the district court, we reject All-Luminum's claim that the contract is ambiguous. See *Video Update, Inc. v. Videoland, Inc.*, 182 F.3d 659, 664 (8th Cir.1999) (applying Minnesota law). The **lease** terms describe a flat monthly rental fee and prorated **interim rent** based on the flat monthly fee. The **lease** does not describe the rental fees in terms of principal and interest. We also reject All-Luminum's claim the **lease** is a finance **lease** under *Minnesota Statutes § 336.2A-103(g)* (1998). All-Luminum did not present this claim to the district court and we will not consider it for the first time on appeal. *Callantine v. Staff Builders, Inc.*, 271 F.3d 1124, 1130 n. 2 (8th Cir.2001). Because an extended opinion would serve no useful purpose in this diversity case, we affirm without further explanation. See 8th Cir. R. 47B.

C.A.8 (Minn.),2002.
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