

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES A. EAPMON,
Appellant,
vs.
JOANN NEISCH,
Respondent.

No. 61207

FILED

NOV 16 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *T. Malone*
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal of a district court summary judgment and writ of possession in an unlawful detainer action. Eighth Judicial District Court, Clark County; Douglas W. Herndon, Judge.

Respondent, appellant's grandmother, filed an unlawful detainer action against appellant in district court seeking a writ of possession regarding a property that respondent alleged she owned and in which respondent resided and refused to vacate. Respondent served appellant with requests for admissions, interrogatories, and requests for production of documents. After the deadline to serve the responses had passed, appellant requested an extension to respond to the discovery requests, and respondent granted appellant a one-week extension. After the extended deadline passed, appellant requested an additional extension. Respondent informed appellant that she would file a motion to compel if she did not have his responses by the close of business the next day. Appellant admits that he did not provide the responses to respondent's counsel by the next day.

Respondent filed a motion for summary judgment and requested that the requests for admissions be deemed admitted. In

support of her motion, respondent attached documents proving her ownership of the property. Appellant opposed the motion, admitting that the discovery responses were not timely served. The district court granted summary judgment and a writ of possession and deemed the requests admitted. The district court also granted respondent \$58,000 in damages. This appeal followed.

Appellant argues on appeal that the court should have granted him additional time to respond to the requests for admissions and other discovery requests, and consequently summary judgment should not have been granted in respondent's favor. Appellant also argues that the damages awarded to respondent are unreasonable.

This court reviews summary judgments de novo. Wood v. Safeway, Inc., 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is appropriate if the pleadings and other evidence on file, viewed in the light most favorable to the nonmoving party, demonstrate that no genuine issue of material fact remains in dispute and that the moving party is entitled to judgment as a matter of law. Id. Having reviewed appellant's proper person appeal statement and the record on appeal, we conclude that appellant has not shown that the district court erred in granting summary judgment.

Appellant failed to produce any evidence or facts to show that any genuine issues of material fact remain in dispute regarding the ownership of the property at issue. Appellant argued that the house was left to his family by his grandfather before his death, without attaching any evidence in support of this argument, while respondent provided evidence to show that she is in fact the legal owner of the property and that appellant's grandfather did not give the property, of which she was a

joint tenant, to appellant's family. To withstand summary judgment, the nonmoving party cannot rely solely on general allegations and conclusions set forth in the pleadings, but must instead present specific facts demonstrating the existence of a genuine factual issue supporting his claims. NRCP 56(e); Wood, 121 Nev. at 731, 121 P.3d at 1030-31. The record shows that appellant failed to present any such facts.


A review of the record also shows that the district court did not err in deeming the requests for admissions admitted and granting summary judgment and damages based, in part, on the admissions. See Smith v. Emery, 109 Nev. 737, 742-43, 856 P.2d 1386, 1390 (1993) ("It is well settled that failure to respond to a request for admissions will result in those matters being deemed conclusively established."); Lawrence v. Southwest Gas Corp., 89 Nev. 433, 433-34; 514 P.2d 868, 869 (1973) (upholding summary judgment based on facts deemed admitted). As appellant failed to present any specific facts or evidence in support of his claims and the district court properly deemed the admission admitted, the district court did not err in granting summary judgment and a writ of possession in favor of respondent.


As to the damages awarded to respondent, having reviewed the record, we conclude that substantial evidence supports the district court's award of back rent to respondent. NOLM, LLC v. County of Clark, 120 Nev. 736, 739, 100 P.3d 658, 660-61 (2004) (explaining that this court defers to the district court's factual findings, so long as they are not clearly wrong and are supported by substantial evidence). The evidence supports the court's finding that respondent is owed back rent from 2006, when she

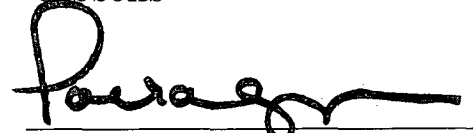
first asked appellant to vacate the property, and respondent produced evidence of the rental value of the property.

As we perceive no abuse of discretion or legal error by the district court, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Douglas


_____, J.
Gibbons


_____, J.
Parraguirre

cc: Hon. Douglas W. Herndon, District Judge
James A. Eapmon
Kristine K. Jensen
Eighth District Court Clerk