

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

ARKHAM XI, LLC,
Appellant,
vs.
CARRINGTON MORTGAGE
SERVICES, LLC,
Respondent.

No. 75721-COA

FILED

OCT 24 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

Arkham XI, LLC, appeals from a district court order granting summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.

The original owner of the subject property failed to make periodic payments to his homeowners' association (HOA). The HOA recorded a notice of lien for, among other things, unpaid assessments and later a notice of default and election to sell to collect on the past due assessments and other fees pursuant to NRS Chapter 116. Prior to the sale, the predecessor to Carrington Mortgage Services, LLC (CMS)—the beneficiary of the first deed of trust on the property—tendered payment to the HOA foreclosure agent for an amount equal to nine months of past due assessments, which the agent accepted. Nonetheless, the HOA proceeded with its foreclosure sale. Arkham XI, LLC (Arkham), later acquired the subject property from the entity that purchased it at the HOA foreclosure sale. Arkham and CMS then filed counterclaims seeking to quiet title to the property. CMS later moved for summary judgment, which the district court granted, concluding that the tender extinguished the superpriority

lien and that the property remained subject to the first deed of trust. This appeal followed.

This court reviews a district court's order granting summary judgment de novo. *See Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005). Summary judgment is proper if the pleadings and all other evidence on file demonstrate that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law. *Id.* When deciding a summary judgment motion, all evidence must be viewed in a light most favorable to the nonmoving party. *Id.* General allegations and conclusory statements do not create genuine issues of fact. *Id.* at 731, 121 P.3d at 1030-31.

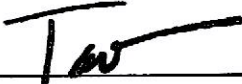
On appeal, Arkham asserts that the tender was impermissibly conditional because it was made via check rather than a cashier's check as required in the notice of sale. However, Arkham does not present any cogent argument or relevant authority to support the notion that the agent was authorized to demand payment by a specific means, such that payment by another means would not constitute a valid tender. Thus, we do not consider Arkham's argument in this regard. *See Edwards v. Emperor's Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (noting that this court need not consider claims that are not cogently argued or supported by relevant authority). And because the record reflects that CMS tendered a check to the HOA foreclosure agent in the amount of the superpriority portion of the lien prior to the foreclosure sale, we conclude the district court properly determined that the tender extinguished the HOA's superpriority lien such that the buyer at the sale took the property subject to CMS' deed of trust. *See Bank of Am., N.A. v. SFR Invs. Pool 1*,

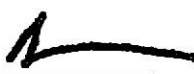
LLC, 134 Nev. 604, 605, 427 P.3d 113, 116 (2018).¹ Thus, in light of the foregoing, we conclude that no genuine issue of material fact existed to prevent summary judgment in favor of CMS. *See Wood*, 121 Nev. at 729, 121 P.3d at 1029.

Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Gibbons


_____, J.
Tao


_____, J.
Bulla

cc: Hon. Michelle Leavitt, District Judge
Hong & Hong
Akerman LLP/Las Vegas
Eighth District Court Clerk

¹We reject Arkham's argument that the letter CMS sent to the foreclosure agent contained a misstatement of law amounting to an impermissible condition. The letter to which Arkham refers merely inquired as to what the amount of the superpriority lien was so that CMS could pay it. It did not state any conditions of payment or acceptance, and there is no evidence in the record to suggest that CMS included an additional letter setting forth any conditions with the check that it sent to the HOA.