IN THE COURT OF APPEALS OF THE STATE OF NEVADA

RH KIDS, LLC, A NEVADA LIMITED LIABILITY COMPANY,
Appellant,
vs.
LAKEVIEW LOAN SERVICING, LLC, A FLORIDA LIMITED LIABILITY COMPANY REGISTERED WITH THE NEVADA SECRETARY OF STATE,
Respondent.

No. 78479-COA

ORDER OF AFFIRMANCE

RH Kids, LLC (RH), appeals from a district court order granting a motion for summary judgment in a quiet title action. Eighth Judicial District Court, Clark County; David M. Jones, Judge.

The original owner of the subject property failed to make periodic payments to her homeowners' association (HOA). The HOA recorded a notice of delinquent assessment lien 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 respondent Lakeview Loan Servicing, LLC (Lakeview)—holder of the first deed of trust on the property—tendered payment to the HOA foreclosure agent for nine months of past due assessments, but the agent rejected the tender and proceeded with its foreclosure sale, at which the predecessor to RH purchased the property. Ultimately, RH initiated the underlying action seeking to quiet title, and Lakeview counterclaimed seeking the same. Lakeview moved for summary judgment, which the district court granted on the ground that the tender satisfied the superpriority portion of the

HOA's lien such that RH took title to the property subject to Lakeview's deed of trust. This appeal followed.

This court reviews a district court's order granting summary judgment de novo. *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.

Here, the district court correctly determined that the tender of nine months of past due assessments satisfied the superpriority lien such that RH took the property subject to Lakeview's 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). We reject RH's argument that Lakeview failed to prove that the tender was actually delivered, as there is circumstantial evidence in the record of delivery—including copies of the tender letter and check and supporting affidavits from the attorney who handled tender payments for Lakeview's predecessor's counsel—and RH has failed to point to anything in the record to rebut that evidence. *See Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602-03, 172 P.3d 131, 134 (2007) (discussing the burdens of production that arise in the context of a motion for summary judgment).

Although RH also argues that the letter accompanying the check contained impermissible conditions because it supposedly misstated the law regarding maintenance or nuisance abatement charges, RH failed

to raise this issue below, and it is therefore waived. *See Old Aztec Mine, Inc. v. Brown*, 97 Nev. 49, 52, 623 P.2d 981, 983 (1981) ("A point not urged in the trial court . . . is deemed to have been waived and will not be considered on appeal."). And even if RH preserved the issue, the letter did not address maintenance or nuisance abatement charges at all, and there is no indication that they were part of the HOA's lien in this case. *Cf. Bank of Am.*, 134 Nev. at 607-08, 427 P.3d at 118 (concluding that a materially similar tender letter was not impermissibly conditional and noting that "the HOA did not indicate that the property had any charges for maintenance or nuisance abatement").

Thus, in light of the foregoing, we conclude that no genuine issue of material fact exists to prevent summary judgment in favor of Lakeview, *see Wood*, 121 Nev. at 729, 121 P.3d at 1029, and we

ORDER the judgment of the district court AFFIRMED.[1]

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Bulla

[1]Insofar as the parties raise arguments that are not specifically addressed in this order, we have considered the same and conclude that they either do not present a basis for relief or need not be reached given the disposition of this appeal.

cc: Hon. David M. Jones, District Judge
Hong & Hong
McCarthy & Holthus, LLP/Las Vegas
Eighth District Court Clerk