

MEMORANDUM DECISION

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IN THE
Court of Appeals of Indiana

Pati Hanlon,
Appellant-Defendant

v.

Walnut Grove Mutual Housing Association,
Appellee-Plaintiff



May 1, 2024

Court of Appeals Case No.
23A-CT-2625

Appeal from the St. Joseph Circuit Court
The Honorable John E. Broden, Judge

Trial Court Cause No.
71C01-2303-CT-140

Memorandum Decision by Judge Mathias
Judges Tavitas and Weissmann concur.

Mathias, Judge.

[1] Pati Hanlon appeals the St. Joseph Circuit Court’s judgment for Walnut Grove Mutual Housing Association (“the Association”) following a bench trial. Pati presents two issues for our review, which we consolidate and restate as the following issue: whether the trial court erred when it entered judgment for the Association on its complaint against Pati for immediate possession and ejectment.

[2] We affirm.

Facts and Procedural History

[3] In 2013, Pati entered into a membership agreement with the Association, and she moved into unit 216 in the Walnut Grove complex in South Bend. Pursuant to the agreement, Pati has an ownership interest in Walnut Grove. In 2016, Pati married Patrick Hanlon. In 2018, Pati suffered a heart attack, and her health has been impaired ever since.

[4] On September 14, 2022, Pati and Patrick attended a meeting of the Walnut Grove Board (“the Board”). After the meeting, Pati was sitting in the Hanlons’ car and Patrick was outside of the car when a Board member, Paula Blaskow, approached the car. Blaskow was screaming at Pati. Walnut Grove’s General Manager, Kasey Klockow, soon joined Blaskow, and Pati got out of the car and approached the two women, who had accused Pati of badmouthing Blaskow. Finally, Blaskow said to Pati, “I have the virus.” Tr. p. 80. Blaskow and Klockow then walked away.

- [5] A few weeks later, on September 30, Klockow and Linda Chism, the Board President, went to talk to Pati about a phone call they had received about her. When they approached Pati, she began yelling expletives at the women, and Pati punched Chism in the arm. Pati then started grabbing at Klockow and scratched her, breaking the skin. Klockow and Chism later filed a police report against Pati.
- [6] A short time later, Klockow and Chism reported the incident to the Board during a closed Board meeting, and the Board “immediately wanted to terminate [Pati’s] membership.” *Id.* at 27. Over the ensuing few months, the Board gathered witness statements and the September 30 police report. And on January 18, 2023, a lawyer representing the Association sent Pati a letter notifying her that her membership had been terminated due to her “attack” on “multiple members” of Walnut Grove causing them “physical harm and injury[.]” Appellant’s App. Vol. 2, p. 51.
- [7] Pati appealed the Association’s termination decision. The Association scheduled a hearing on Pati’s appeal, which was open to all members. That hearing was held on March 4. Patrick represented Pati, who did not want to attend for health reasons. The Association gave each member, including Patrick, five minutes to present argument. Following that hearing, the Association denied Pati’s appeal.

[8] On March 22, the Association filed a complaint for ejection and immediate possession against Pati. Following a bench trial, the trial court entered judgment for the Association. This appeal ensued.

Discussion and Decision

[9] Pati appeals the trial court's judgment following a bench trial, and the trial court issued findings and conclusions in support of its judgment for the Association. Our standard of review in such appeals is well established:

We may not set aside the findings or judgment unless they are clearly erroneous. In our review, we first consider whether the evidence supports the factual findings. Second, we consider whether the findings support the judgment. Findings are clearly erroneous only when the record contains no facts to support them either directly or by inference. A judgment is clearly erroneous if it relies on an incorrect legal standard. We give due regard to the trial court's ability to assess the credibility of witnesses. While we defer substantially to findings of fact, we do not defer to conclusions of law. We do not reweigh the evidence; rather we consider the evidence most favorable to the judgment with all reasonable inferences drawn in favor of the judgment.

State v. Int'l Bus. Machs. Corp., 51 N.E.3d 150, 158 (Ind. 2016) (citations and quotation marks omitted).

[10] Pati contends that the Association violated its bylaws when it terminated her membership. First, Pati argues that the Association was required to give her notice and an opportunity to cure before terminating her membership. Second, Pati argues that she was denied access to the minutes from the closed Board

meeting in which the termination vote was taken¹ in violation of the bylaws. Pati asserts that these violations of the bylaws require reversal. We address each contention in turn.

Notice

[11] The Association’s bylaws provide in relevant part that,

[p]rior to a final vote of the Board for termination, the Board shall except in the case where immediate remedy is required to protect property or persons issue by certified mail to the Member, one (1) warning describing the reasons for which termination is being considered as well as corrective action necessary to bring the Member or Approved Resident into compliance. Such *written* warning shall specify *a forty-[five] (45) day* compliance *requirement*.

Ex. p. 17 (emphases in original). The Board did not send Pati a written warning when it decided to terminate her membership, and it did not give her an opportunity to take corrective action prior to termination.

[12] At trial, Pati argued that, because more than 100 days had elapsed between September 30, 2022, and the termination notice on January 18, 2023, the evidence shows that this was not a “case where immediate remedy [was] required to protect property or persons” to justify the lack of a written warning. *See id.* Rather, Pati continued living at Walnut Grove, without incident.

¹¹ It is unclear when the vote to terminate Pati’s membership was taken.

However, the trial court found that the Association “was within its rights to seek the termination of [Pati’s] membership without providing her with one warning and an opportunity to cure based upon the facts of the September 30, 2022, incident.” Appellant’s App. Vol. 2, p. 8.

[13] For the first time on appeal, Pati argues that this provision is ambiguous and should be construed in her favor, citing *Trustcorp Mortgage Co. v. Metro Mortgage Co., Inc.*, 867 N.E.2d 203, 213 (Ind. Ct. App. 2007) (stating that “when the language of a contract is ambiguous . . . we construe the contract against the party responsible for the wording). However, it is well settled that a party may not present an argument to an appellate court unless the party raised that argument or issue to the trial court. See *GKC Ind. Theatres, Inc. v. Elk Retail Invs., LLC.*, 764 N.E.2d 647, 651 (Ind. Ct. App. 2002). Accordingly, we do not consider Pati’s argument that the notice provision in the bylaws is ambiguous.

[14] In any event, Pati argues that the more than 100-day delay

in the Board decision to terminate [Pati’s] membership demonstrates that the [B]oard was not acting in a case “where immediate remedy is required to protect property or person.” If [Pati] really did present a danger to others at Walnut Grove, Walnut Grove had a duty to its other residents to move quickly to prevent harm. But it did not.

Appellant’s Br. at 16. Pati’s argument amounts to a request that we reweigh the evidence, which we will not do on appeal. The evidence shows that Pati physically assaulted a Board member and the General Manager of Walnut Grove. The Board then voted to terminate Pati’s membership. While the Board

delayed notifying Pati of the vote, nothing in the bylaws requires that Pati be notified of termination within any specific timeframe, even where an “immediate remedy” is required. We cannot say that the trial court erred when it found that the Board did not violate the bylaws when it terminated Pati’s membership without notice or an opportunity to cure.

Meeting Minutes

[15] Pati contends that the Association violated a provision of its bylaws stating that the Board secretary shall make the minutes of “all meetings of the Members and the Board of Directors” available to Association members. Ex. p. 19. In preparation for the March 4 hearing on her appeal, Pati had requested the minutes of the Board meeting where the Board had voted to terminate her membership. But she was told that that meeting was a closed meeting and, therefore, that she was not entitled to the minutes. Pati maintains that, in light of the Association’s denial of her request for the minutes, along with various restrictions imposed on her with regard to the March 4 hearing, the Association “violated basic concepts of due process and fairness.” Appellant’s Br. at 17.

[16] Pati has not shown reversible error on this issue. First, to the extent Pati argues that the provision regarding her right to the minutes is ambiguous, again, she makes this argument for the first time on appeal, and it is waived. *GKC Ind. Theatres, Inc.*, 764 N.E.2d at 651. Second, to the extent Pati argues that she was denied due process and a fair hearing on her appeal to the Association, Pati does not direct us to any contractual provision or case law requiring more process than she was given. We cannot say that the trial court erred when it

found that the Association “followed its by-laws, held the requisite hearing with notice and opportunity to be heard, and voted in a manner consistent with the by-laws to terminate [Pati’s] membership.” Appellant’s App. Vol. 2, p. 11.

[17] For all these reasons, we affirm the trial court’s judgment for the Association on its complaint for ejection and immediate possession.

[18] Affirmed.

Tavitas, J., and Weissmann, J., concur.

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