

*This opinion will be unpublished and may not be cited except as provided by Minn. Stat. § 480A.08, subd. 3 (2018).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A18-1819**

Diane Mast, et al.,  
Respondents,

vs.

Rachel Hill,  
Appellant.

**Filed August 26, 2019  
Affirmed  
Johnson, Judge**

Ramsey County District Court  
File No. 62-HG-CV-18-2133

Christopher T. Kalla, Douglass E. Turner, Hanbery & Turner, P.A., Minneapolis,  
Minnesota (for respondents)

Rachel Hill (*pro se* appellant)

Considered and decided by Johnson, Presiding Judge; Hooten, Judge; and Klaphake,  
Judge.\*

**UNPUBLISHED OPINION**

**JOHNSON**, Judge

Rachel Hill was evicted from an apartment for non-payment of rent. She argues that the district court did not have subject-matter jurisdiction over the eviction case, that

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\*Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

the district court did not have personal jurisdiction over her, and that the landlords' complaint did not state a claim upon which relief can be granted. We affirm.

## FACTS

In April 2018, Hill entered into a written lease agreement for an apartment in a multi-unit building. She agreed to pay rent of \$1,075 per month, on the first day of each month, for the period of April 2018 to April 2019.

On October 9, 2018, Diane Mast and the First Lawyers Trust Company (FLTC), the co-owners of the property, filed a complaint with the district court, alleging that Hill did not pay rent for September or October of 2018. Mast and FLTC sought recovery of the premises and costs and disbursements. On October 12, the court administrator issued an eviction summons, which scheduled a hearing for October 25. The plaintiffs' attorney attempted to serve the summons and complaint on Hill at the apartment on October 16 and 17 but was unsuccessful. On the second attempt, the attorney left a copy of the summons and complaint at the front door of the apartment, and the attorney sent a copy by U.S. Mail to the address of the apartment on the same day.

Hill appeared *pro se* at the October 25 hearing. At the outset of the hearing, she served several documents on the plaintiffs' attorney, including an answer to the complaint. In her answer, Hill alleged that service of process was insufficient on the ground that she received notice of the hearing fewer than seven days before the hearing and also alleged that the plaintiffs had breached the covenant of habitability by not installing a radiator in the apartment. Hill discussed her habitability defense at the hearing. The referee explained that, to pursue a habitability defense, Hill would be required to deposit the past-due rent

with the court administrator, who would hold it pending trial, and that the deposited funds would be disbursed to the prevailing party at the conclusion of the action. Hill stated that she understood the procedure described by the referee and could make a partial deposit by the close of business that day and a full deposit by October 29. The referee stated that the court would issue an order requiring Hill to make such deposits, that the terms of the order would be “very unforgiving,” and that Hill would not be entitled to a trial on the eviction complaint if she did not abide by the order. Hill stated that she understood what she needed to do. Later that same day, the district court filed an order directing Hill to “deposit with the Court the sum of \$1,725 on or before October 26, 2018 by 3 p.m. [and] \$425 by October 29, 2018 at 3 p.m.” The order further stated, “If the above deposits are not made, a writ of restitution shall issue and a judgment shall be entered against you.”

Hill did not deposit \$1,725 with the district court by the first deadline. An hour after the first deadline had passed, Hill filed a motion in which she argued that the plaintiffs had failed to state a claim upon which relief can be granted and challenged the sufficiency of service of process.

On October 29, the district court issued an order canceling the trial, directing entry of judgment in favor of the plaintiffs and against Hill, and directing the issuance of a writ of recovery. The court administrator issued the writ the following day. Hill appeals.

## **D E C I S I O N**

In the argument section of her *pro se* brief, Hill states as follows: “Appellant argues that Respondents’ Civil Complaint lacks personal and subject-matter jurisdiction in the District Court for Respondents’ failure to state a claim upon which relief may be granted

and Respondents' lack of process of Service upon Appellant." We construe the brief to make three arguments for reversal, which we address in turn.

**A.**

"Subject-matter jurisdiction refers to a court's authority to hear and determine a particular class of actions and the particular questions presented to the court for its decision." *Zweber v. Credit River Township*, 882 N.W.2d 605, 608 (Minn. 2016) (quotations omitted). "The determination of whether a particular court has subject-matter jurisdiction depends on whether the court in question has the statutory and constitutional power to adjudicate the case." *Id.* The district courts in Minnesota are courts of general jurisdiction with constitutional authority to hear "all civil and criminal cases." Minn. Const. art. VI, § 3. By statute, "A landlord may bring an eviction action for nonpayment of rent." Minn. Stat. § 504B.291, subd. 1(a) (2018). This court previously has recognized that the district courts have subject-matter jurisdiction over eviction actions. *See Real Estate Equity Strategies, LLC v. Jones*, 720 N.W.2d 352, 355-56 (Minn. App. 2006). Thus, the district court had subject-matter jurisdiction over Mast and FLTC's eviction action.

**B.**

Hill's argument concerning personal jurisdiction apparently is based on her assertion that Mast and FLTC did not properly serve the summons and complaint on her. But service of process is established by an affidavit of the plaintiffs' attorney, who stated that, eight days before the hearing, he left a copy of the summons and complaint at the front door of the apartment and sent a copy by U.S. Mail to the address of the apartment after

twice attempting to complete service on consecutive days. The attorney's efforts to serve process on Hill are valid pursuant to the following statute:

[S]ervice of the summons may be made upon the defendant by posting the summons in a conspicuous place on the property for not less than one week if:

(1) the property described in the complaint is:

.....

(ii) residential and service has been attempted at least twice on different days, with at least one of the attempts having been made between the hours of 6:00 p.m. and 10:00 p.m.; and

(2) the plaintiff or plaintiff's attorney has signed and filed with the court an affidavit stating that:

(i) the defendant cannot be found, or that the plaintiff or the plaintiff's attorney believes the defendant is not in the state; and

(ii) a copy of the summons has been mailed to the defendant at the defendant's last known address if any is known to the plaintiff.

Minn. Stat. § 504B.331(d) (2018). Thus, the district court had personal jurisdiction over Hill.

### C.

A defending party may move to dismiss a complaint for "failure to state a claim upon which relief can be granted." Minn. R. Civ. P. 12.02(e). A claim is sufficient to survive a motion to dismiss "if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded." *Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 603 (Minn. 2014). "We consider only those facts alleged in the

complaint, accepting those facts as true and construing all reasonable inferences in favor of the non-moving party.” *In re Individual 35W Bridge Litigation*, 806 N.W.2d 811, 815 (Minn. 2011). Hill filed a motion pursuant to rule 12.02(e) one hour after the court-imposed deadline to make a partial deposit of past-due rent. The district court did not consider the motion to dismiss because Hill did not make the partial deposit, which caused the district court to order entry of judgment pursuant to the October 25 order. Even if the district court had considered the motion, the district court would have been compelled to deny it. The complaint alleged that Hill had failed to pay rent for two consecutive months. Non-payment of rent is a valid ground upon which to grant relief in an eviction action. Minn. Stat. § 504B.291, subd. 1(a). Thus, the complaint stated a claim upon which relief can be granted.

In sum, the district court did not err by exercising jurisdiction and by ordering entry of judgment in favor of Mast and FLTC and against Hill.

**Affirmed.**