

**COURT OF APPEALS
DECISION
DATED AND FILED**

October 4, 2011

A. John Voelker
Acting Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2011AP1230

Cir. Ct. No. 2011SC7724

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

SANDRA K. MURRAY,

PLAINTIFF-APPELLANT,

V.

JEFF JUBELIER,

DEFENDANT-RESPONDENT.

APPEAL from an order of the circuit court for Milwaukee County:
JANE V. CARROLL, Judge. *Affirmed.*

¶1 BRENNAN, J.¹ Sandra K. Murray appeals, *pro se*, from the circuit court order dismissing her small claims complaint. Her appellate brief is not

¹ This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2) (2009-10). All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted.

compliant with the Rules of Appellate Procedure set forth in WIS. STAT. RULE 809.19, making it difficult to discern her appellate claim.² For instance, Murray’s statement of the issues differs from her statement of the case and argument.³ See RULE 809.19(1)(b), (d), and (e). But as best as we can discern, Murray is arguing that the circuit court erred when it dismissed her small claims complaint because it did not allow her to submit a brief from a separate, dismissed eviction action. Because the circuit court did not erroneously exercise its discretion in dismissing Murray’s small claims complaint, we affirm.

BACKGROUND

¶2 In November 2009, Murray filed a complaint with the State of Wisconsin, Department of Workforce Development, Equal Rights Division (“ERD”), against her landlord, Resnant Properties, claiming “[a]ge, race[] discrimination.” In her signed ERD complaint, Murray stated:

The landlord has given me notice that my lease will not be renewed. I believe that it is because of my disability which is seizures and the fact that I see a neurologist for a disabling condition. The Respondent has failed to

² The argument section of Murray’s appellate brief consists of five, handwritten sentences and does not include citation to any authority. See WIS. STAT. RULE 809.19(1)(e). Furthermore, although Murray attached several documents to her brief, presumably as part of an unlabeled appendix, the documents are not listed in a table of contents for an appendix nor are they included in the record. See WIS. STAT. RULE 809.19(2)(a). Jeffrey Jubelier, the respondent, also includes several documents in his appendix which are not included in the record. We do not consider documents that are not included in the record. See *State v. Lass*, 194 Wis. 2d 591, 604, 535 N.W.2d 904 (Ct. App. 1995).

³ Murray’s statement of the issues discusses the circuit court’s refusal to allow Murray to submit certain documents from Legal Action of Wisconsin, Inc.; her statement of the case refers to age discrimination and noise harassment; and her argument refers to a twenty-eight-day notice she received for noise disturbance.

accommodate me when I requested that the noise levels be kept down due to my neurological and seizure conditions. I also believe that the Respondent has chosen not to renew my lease due to the fact that I have been seen with an African American individual and because of my age, which is 55.

¶3 In March 2010, Murray and Resnant entered into a written private settlement agreement, which was signed by both parties. The agreement provides, in paragraph 1:

Complainant shall, without recovery of costs or attorneys' fees, voluntarily dismiss the complaint with prejudice, agree not to file any additional complaints or other state agency charges, lawsuits or the like against Respondent based on her tenancy with Respondent, prior and up to the date of this agreement and forever release and discharge Respondent from any and all claims, whether known or unknown, relating to her tenancy with Respondent prior to and up to the date of this agreement.

¶4 In March 2011, Murray filed the small claims complaint at issue here, again claiming age discrimination and noise harassment, against Jeff Jubelier, who is the senior property manager for Resnant. Murray complains of age discrimination because Jubelier allegedly allowed an eighty-six-year-old tenant to continuously harass her. She also complains that other tenants made too much noise, disturbing her sleep, and that Jubelier failed to accommodate her sleep needs.

¶5 In May 2011, the circuit court dismissed Murray's small claims complaint in a written order, finding that the matter had been previously settled. Murray appeals.

DISCUSSION

¶6 We review the circuit court's dismissal of a small claims complaint for a proper exercise of discretion. *See Hudson Diesel, Inc. v. Kenall*, 194 Wis. 2d 531, 541-42, 535 N.W.2d 65 (Ct. App. 1995). Here, the circuit court dismissed the complaint after finding that the parties had previously entered into a written private settlement agreement disposing of the same issues that Murray complained of in her small claims complaint.

¶7 The trial court was correct. The small claims complaint clearly pleads the same issues Murray alleged in her ERD complaint, and the written private settlement agreement clearly stated that by signing it Murray was giving up all future lawsuits against Resnant based on her tenancy there. Therefore, we conclude that the record supports the circuit court's decision.

¶8 Furthermore, to the extent that Murray complains that the circuit court prevented her from submitting certain documents from Legal Action of Wisconsin, Inc. in support of her complaint, there is nothing in the record indicating that Murray asked the court to consider such documents. As such, we affirm.

By the Court.—Order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

