

No. 1-15-3575

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

WELLS FARGO BANK, N.A., as agent for the	)	Appeal from the Circuit Court of
UNITED STATES DEPARTMENT OF HOUSING	)	Cook County.
AND URBAN DEVELOPMENT,	)	
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 15 M1 709831
	)	
DIANE KNOWLES,	)	
	)	
Intervening Defendant-Appellant	)	
	)	
(Unknown Owners, Defendants).	)	Honorable Diana Rosario, Judge Presiding.

JUSTICE DELORT delivered the judgment of the court.  
Justices Cunningham and Rochford concurred in the judgment.

**ORDER**

¶ 1 **Held:** The tenant in this forcible entry and detainer case forfeited her claim that she had a month-to-month tenancy, because she did not raise it in opposition to the owner’s motion for summary judgment in the trial court.

¶ 2 Plaintiff Wells Fargo Bank, N. A. sued Nakia Tyler, Talia Tyler, and other parties to foreclose on the Tylers’ mortgage on certain real estate they owned in Chicago. The foreclosure case ended on July 24, 2014 when the court entered an order confirming the sale of the property

to Wells Fargo, which was the highest bidder at a judicial auction. Five days later, the judicial selling officer executed a deed granting the property to the Secretary of the Department of Housing and Urban Development (HUD) as assignee for Wells Fargo.

¶ 3 On May 26, 2015, Wells Fargo, now acting as HUD's agent, filed a forcible entry and detainer complaint against "unknown owners" seeking possession of the property. The court entered a default order of possession in favor of Wells Fargo. Shortly thereafter, Diane Knowles, a tenant at the property, moved to vacate that default. The circuit court granted her motion and set the case for trial. Knowles was not named as a defendant in the complaint and she never formally sought leave to intervene as a defendant. Nonetheless, the trial court and parties deemed her to be a defendant, and we will treat her as having intervened as a defendant.

¶ 4 Wells Fargo filed a motion for summary judgment supported by, among other things, a copy of the judicial selling officer's deed showing that its principal, HUD, became the owner of the property on July 29, 2014. In opposition, Knowles submitted an affidavit indicating that she moved into a basement apartment on the subject property on May 1, 2012 pursuant to a written one-year lease between Nakia Tyler and herself, expiring May 1, 2013. She also presented a copy of a second lease running from August 1, 2014 to August 1, 2016. Her affidavit was silent regarding her whereabouts between May 1, 2013 and August 1, 2014. The only evidence she presented regarding any payments to Tyler related to her May, 2012 rent and a one-time security deposit.

¶ 5 Knowles asserted that these materials demonstrated that she was a "qualified tenant" under the Chicago Protecting Tenants at Foreclosure Ordinance (Chicago Municipal Code § 5-14-010 *et seq.* (added June 5, 2013) (PTFO) "as she was a tenant in a foreclosure rental property prior to the plaintiff's [sic] Bank, becoming an owner, pursuant to a bona fide rental

agreement.” She argued that, pursuant to the PTFO, she was entitled her to a one-time relocation assistance fee of \$10,600, payable by the owner, “as there has been no offer to renew her lease.” Both in the circuit court and this court, Knowles relies strongly on certain facts, but they are not supported by any evidentiary material submitted in opposition to the summary judgment motion. These include: (1) the existence, or non-existence of any lease renewal offer by Wells Fargo or HUD; and (2) that Knowles vacated the unit, which is the event that triggers eligibility for the \$10,600 PTFO payment. Knowles’s response to the summary judgment motion claimed simply that because Wells Fargo had “refused” to pay her the \$10,600 relocation fee, it was “not entitled to possession,” and therefore summary judgment should be denied.

¶ 6 The trial court granted Wells Fargo’s summary judgment motion and entered an order granting it possession of the property. This appeal followed.

¶ 7 Summary judgment is appropriate “if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c) (West 2010). Summary judgment is a drastic measure and should only be granted when the moving party’s right to judgment is “clear and free from doubt.” *Outboard Marine Corp. v. Liberty Mutual Insurance Co.*, 154 Ill. 2d 90, 102 (1992). “Where a reasonable person could draw divergent inferences from undisputed facts, summary judgment should be denied.” *Id.* We review a trial court’s entry of summary judgment *de novo*. *Id.* We “can sustain the decision of the circuit court on any grounds which are called for by the record regardless of whether the circuit court relied on the grounds and regardless of whether the circuit court’s reasoning was correct.” *Rodriguez v. Sheriff’s Merit Comm’n*, 218 Ill. 2d 342, 357 (2006).

¶ 8 On appeal, Knowles raises a single issue. She contends that when Wells Fargo acquired ownership of the property on July 29, 2014, pursuant to the judicial selling officer's deed, she was then a tenant residing at the property pursuant to an oral month-to-month lease from Nakia Tyler. Accordingly, she claims, she was a "qualified tenant" entitled to payment under the PTFO and, absent such a payment, Wells Fargo was not entitled to possession.

¶ 9 Wells Fargo counters that Knowles has forfeited any such claim because she failed to raise it in the circuit court. We agree. Knowles' factual submissions to Wells Fargo's summary judgment motion consisted only of the two leases and her brief affidavit authenticating those leases. Neither the leases nor the affidavit addressed, in any way, whether—or how—she was a tenant on July 29, 2014. Additionally, she made no argument in opposition to the summary judgment motion that she occupied the property pursuant to an oral lease at the time in question. She merely argued that because she received no payment under the PTFO, Wells Fargo was not entitled to possession. We therefore find that she has forfeited the only argument she raises on appeal. *1010 Lake Shore Ass'n v. Deutsche Bank National Trust Co.*, 2015 IL 118372, ¶ 15 (issues not raised in the trial court are forfeited on appeal).

¶ 10 Forfeiture aside, Knowles's underlying arguments are without merit. Among other things, she incorrectly asserts that Wells Fargo's failure to pay the \$10,600 PTFO relocation fee was a defense to the forcible entry and detainer case. The ordinance does not so provide. In fact, it states that the fee is only due "no later than seven days after the day of complete vacation of the rental unit by the qualified tenant." Chicago Municipal Code § 5-14-050 (amended Apr. 15, 2015). Nothing in the record demonstrates that Knowles ever completely vacated the unit. Additionally, the payment is only due to tenants who occupy the property pursuant to a "bona fide" lease agreement. Chicago, IL City Code §5-14-020. Once Wells Fargo acquired title on

July 29, 2014, Tyler no longer had any interest in the subject property which she could lease to Knowles. Therefore, without any evidence that Knowles resided at the property under some sort of lease, oral or written, immediately before July 29, 2014, we could not find that she was a bona fide tenant so as to trigger her right to a relocation payment pursuant to the PTFO.

¶ 11 We therefore affirm the judgment of the circuit court granting Wells Fargo's motion for summary judgment and granting an order of possession to Wells Fargo.

¶ 12 Affirmed.