LAWLER V. NEW MEXICO-AMERICAN HOUSING FOUNDATION, INC.

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MICHAEL LAWLER,
Plaintiff-Appellant,
v.
NEW MEXICO-AMERICAN HOUSING FOUNDATION, INC., f/d/b/a LA RESOLANA SENIORS COMMUNITY,
Defendant-Appellee.

No. A-1-CA-36259

COURT OF APPEALS OF NEW MEXICO

December 20, 2017

APPEAL FROM THE DISTRICT COURT OF BERNALILLO COUNTY, Valerie A. Huling, District Judge

COUNSEL

Michael Lawler, Albuquerque, NM, Pro Se Appellant

Claud Eugene Vance, Albuquerque, NM, for Appellee

JUDGES

JONATHAN B. SUTIN, Judge. WE CONCUR: J. MILES HANISEE, Judge, JULIE J. VARGAS, Judge

AUTHOR: JONATHAN B. SUTIN

MEMORANDUM OPINION

SUTIN, Judge.

{1} Michael Lawler (Appellant) appeals the district court's February 10, 2017 corrected order granting summary judgment to New Mexico-American Housing

Foundation, Inc., f/d/b/a La Resolana Seniors Community (Appellee). [RP 87] Unpersuaded by Appellant's docketing statement, we issued a notice of proposed summary disposition, proposing to affirm. In response to our notice, Defendant has filed a memorandum in opposition. After due consideration, we remain unpersuaded and therefore affirm.

{2} We will attempt to avoid unnecessary repetition of our notice of proposed summary disposition and instead focus our attention on the content of the memorandum in opposition. In his memorandum, Appellant almost exclusively restates the arguments he made in his docketing statement and does so without reference to persuasive additional authority. We have already addressed these arguments in our notice of proposed summary disposition and will not revisit them here. *See Hennessey v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.3d 683 ("[I]n summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law."). Rather, we concentrate on Appellant's novel point that the house rule prohibiting the storage or use of propane or liquid petroleum (LP) gas containers with a water capacity that exceeds 2.5 pounds [RP 47 at Article IV] is unenforceable under the Uniform Owner-Resident Relations Act (UORRA), NMSA 1978, §§ 47-8-1 to -52 (1975, as amended through 2007) because the rule works a substantial modification of the Appellant's bargain with Appellee. [MIO 2] Appellant cites Section 47-8-23(F), which provides that a house rule is not enforceable if it works a "substantial modification of [the] bargain" between an owner and a resident. Appellant has not provided authority for his conclusion that, or even explained why, the adoption of this house rule rises to the level of a substantial modification of his bargain with Appellee. Accordingly, we are not dissuaded from our proposed conclusion that the house rule is enforceable and with this opinion so conclude. *See Curry v.Great Nw. Ins. Co.*, 2014-NMCA-031, ¶ 28, 320 P.3d 482 ("Where a party cites no authority to support an argument, we may assume no such authority exists."); *State v. Aragon*, 1999-NMCA-060, ¶ 10, 127 N.M. 393, 981 P.2d 1211 (stating that "[t]here is a presumption of correctness in the district court's rulings: and the party claiming error bears the burden of showing error (alteration, internal quotation marks, and citation omitted)).

{3} For the reasons stated in our notice of proposed summary disposition and in this opinion, and applying de novo review as we must to the grant of summary judgment by the district court, *Encenias v. Whitener Law Firm, P.A.*, 2013-NMSC-045, ¶ 6, 310 P.3d 611, we affirm the district court's grant of summary judgment.

{4} IT IS SO ORDERED.

JONATHAN B. SUTIN, Judge

WE CONCUR:

J. MILES HANISEE, Judge

JULIE J. VARGAS, Judge