

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1913**

Thomas Purmort,
Respondent,

vs.

Kaydee Lanahan,
Appellant.

**Filed January 11, 2021
Affirmed
Cleary, Judge***

Anoka County District Court
File No. 02-CV-19-5777

Steven J. Lodge, Lodge Law Office, Coon Rapids, Minnesota (for respondent)

Kaydee Lanahan, Blaine, Minnesota (pro se appellant)

Considered and decided by Reilly, Presiding Judge; Bratvold, Judge; and Cleary,
Judge.

NONPRECEDENTIAL OPINION

CLEARY, Judge

Appellant argues that the district court (1) abused its discretion by not granting her continuance request, and (2) violated her procedural due-process rights by proceeding with

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

an eviction hearing in her absence after she notified the district court that she was discharged from the emergency room of a hospital hours earlier. We affirm.

FACTS

Respondent Thomas Purmort filed an eviction complaint against appellant Kaydee Lanahan concerning a Blaine property that she was renting from him. The complaint alleged that Lanahan missed her \$1,395 monthly payments for the previous five months and ignored multiple written notices to vacate.

Both parties appeared for an initial hearing on November 13, 2019, and the district court scheduled the eviction hearing for November 20, 2019, at 9:00 a.m. At 10:20 a.m. on that date, the district court called the case and Lanahan was not present. Lanahan had called the district court earlier that morning to say that she was in the emergency room of a hospital. The district court also received a faxed “Work/School Excuse and Restrictions” letter stating that Lanahan was discharged at 7:03 a.m. and “is unable to return to work until 11/22/19.” The district court stated on the record that the fax “provides me no further information as to why she was in the hospital, what happened, what her physical condition is now.” The district court then asked Purmort if he wanted to continue in Lanahan’s absence or agree to a short continuance. Purmort’s property manager accompanied him at the hearing, and she stated that Lanahan’s absence “doesn’t surprise us.” She elaborated by stating, “We’ve been dealing with this since August. We’ve given her three letters and opportunities to make this right. . . . We couldn’t get service to her, so we actually gave another extension so that we could properly serve her just because of the background with

her and her family.” Purmort stated that he wanted to go forward with the hearing because he was losing money.

The district court entered default judgment against Lanahan, stating that “tenant did not appear. Medical excuse. The unpaid rent was clearly demonstrated by evidence presented.” The district court ordered entry of judgment for Purmort and calculated Lanahan’s redemption amount as \$7,093 for unpaid rent and court fees. *See* Minn. Stat. § 504B.291, subd. 1(a) (2018) (allowing tenant in nonpayment-of-rent eviction action to redeem tenancy “at any time before possession has been delivered”). The district court stayed issuance of the writ of recovery for six days, giving Lanahan almost a week to redeem the tenancy. Lanahan did not redeem. She later appealed.

DECISION

Continuance request

The first issue is whether the district court abused its discretion by not granting Lanahan’s informal request for a continuance after she notified the court that she was in the emergency room on the morning of the hearing.

“The granting of a continuance is a matter within the discretion of the trial court and its ruling will not be reversed absent a showing of clear abuse of discretion.” *Dunshee v. Douglas*, 255 N.W.2d 42, 45 (Minn. 1977). Refusal to grant a continuance is usually reversible error if uncontradicted evidence shows that the party’s presence was precluded by medical incapacity. *Chahla v. City of St. Paul*, 507 N.W.2d 29, 32 (Minn. App. 1993), *review denied* (Minn. Dec. 20, 1993). The district court “should base its decision on the

facts and circumstances surrounding the request.” *Hamilton v. Hamilton*, 396 N.W.2d 91, 94 (Minn. App. 1986).

Lanahan did not provide the district court with any information other than the fact that she was released from the emergency room of a hospital two hours before the scheduled start of the hearing, and that she had a two-day medical excuse from work. Lanahan did not disclose any specific medical information to the district court. The district court also heard statements from Purmort’s property manager that Lanahan was evasive when they tried to serve her and that that difficulty had postponed the eviction process. Considering these facts and circumstances surrounding Lanahan’s requested continuance, we conclude that the district court did not abuse its discretion.

Due process

Lanahan next argues that the district court violated her procedural due-process rights by continuing with the hearing in her absence despite her medical excuse.

Whether a person’s procedural due-process rights have been violated is a question of law that appellate courts review de novo. *Sawh v. City of Lino Lakes*, 823 N.W.2d 627, 632 (Minn. 2012). Both the Minnesota and United States Constitutions provide that the government cannot deprive a person of “life, liberty, or property without due process of law.” U.S. Const. amend XIV, § 1; Minn. Const. art. I, § 7. “[T]he due process protection provided under the Minnesota Constitution is identical to the due process guaranteed under the U.S. Constitution.” *In re Individual 35W Bridge Litig.*, 806 N.W.2d 820, 829 (Minn. 2011). To satisfy due-process, procedures “must provide an individual with notice and an

opportunity to be heard at a meaningful time and in a meaningful manner.” *Sawh*, 823 N.W.2d at 632 (quotation omitted).

There is no question that the district court gave Lanahan notice. She argues that she was not given an opportunity to be heard because of her medical situation. In *State v. Batchelor*, we suggested in dicta that holding a hearing despite an individual’s medical emergency may deprive that individual of his opportunity to be heard. 786 N.W.2d 319, 323 (Minn. App. 2010). The appellant argued that it would be unfair to proceed with a hearing in the hypothetical scenario in which a defendant missed his hearing because he was unconscious in a hospital after a car accident. *Id.* at 323. We stated that the hypothetical scenario “would clearly be a very different case than the one with which we are presented, and by our opinion today we do not imply that a defendant who fails to appear at his sentencing hearing because he is incapacitated should be bound by an agreement to appear.” *Id.* at 323. But unlike the hypothetical scenario in *Batchelor*, Lanahan did not show that she was incapacitated at the time of the hearing. Lanahan only showed that she was discharged from the emergency room two hours before her scheduled hearing. The district court knew nothing about the reason she was in the emergency room or her condition upon being discharged. Lanahan has not shown how the district court violated her due-process rights by proceeding with the hearing in her absence.

Affirmed.