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# STATE OF MICHIGAN

# COURT OF APPEALS

JENNIFER NGUYEN,

Plaintiff-Appellant,

v

ZEN TROY, LLC and UNICORP NATIONAL DEVELOPMENT, INC.,

Defendants-Appellees.

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September 09, 2026
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No. 375810
Oakland Circuit Court
LC No. 2024-206036-CZ

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants, Zen Troy, LLC and Unicorp National Development, Inc. (Unicorp), summary disposition under MCR 2.116(C)(10) (no genuine issue of material fact). We affirm.

## I. FACTUAL BACKGROUND

This case arises from the theft of plaintiff's personal property from her apartment at Zen City Center Apartments in Troy. Plaintiff lived at the complex with Tiffany Arnold, who was then employed by defendants as a community manager.[1] The apartment doors were controlled by an electronic key-fob system. Individual residents had keys for their own apartments, while a manager could create a master key capable of opening any apartment. The system also maintained an electronic log identifying the keys used to enter an apartment.

[1] Arnold pleaded no contest to one count of third-degree home invasion, MCL 750.110a(4), and was sentenced to two years' probation. Oakland County Court Explorer, *Register of Actions in Case No. 2024-288017-FH*, <https://courtexplorer.oakgov.com/OaklandCounty/SearchCases/ViewAction?CaseNo=2FbpKhOHzyDMkeXrQgrVDQ%3D%3D> (accessed August 11, 2026).

Defendants terminated Arnold's employment on March 23, 2022, for poor performance and negative online reviews. Nicholas Masi, who succeeded Arnold as community manager, testified that Arnold had not previously engaged in unethical conduct. When Arnold was terminated, Masi and a regional manager deactivated the master key assigned to her using her employee credential. According to Masi, that process would completely deactivate the assigned key. However, Masi acknowledged that the system permitted a manager to create a master key and then remove it from the software without disabling the physical key. An unregistered key could thus remain active until the apartment doors were reprogrammed. Arnold continued to reside at the complex through June 2022.

Near the end of March 2022, after Arnold's termination, Masi discovered that appliances were missing from four apartments and that appliances had been stacked near an exterior door in two others. Masi contacted the Troy Police Department. He did not audit the electronic access logs because, at that time, he did not know how to run an audit of the system. According to Masi, the responding officers told him that similar appliance thefts had occurred at nearby construction sites, including at another new construction project approximately one block away. Nothing in the police response identified Arnold as a suspect or suggested that an unauthorized master key had been used.

On April 29, 2022, plaintiff returned home and discovered that jewelry, a handbag, sunglasses, and other personal property were missing from her apartment. Her door was locked and showed no sign of forced entry. After plaintiff reported the theft, Masi reprogrammed her apartment door and provided her a new key fob. He then reviewed the access information and learned that an unregistered staff-level key had been used to enter plaintiff's apartment. Further investigation showed that the same key had been used to enter Arnold's apartment and at least one of the apartments involved in the March appliance thefts. Masi thereafter reprogrammed all apartment doors, disabling the unauthorized key.

Plaintiff filed this action alleging ordinary negligence, gross negligence, intentional infliction of emotional distress (IIED), and negligent infliction of emotional distress (NIED). Plaintiff alleged that defendants knew or should have known that Arnold retained unauthorized access to tenants' apartments and negligently failed to prevent the April 29 break-in. Defendants moved for summary disposition under MCR 2.116(C)(8) (failure to state a claim) and (C)(10) (no genuine issue of material fact), arguing in part that they had no duty to anticipate or prevent Arnold's unforeseeable criminal conduct. Defendants also argued that the trial court should dismiss plaintiff's IIED and NIED claims, because she did not demonstrate any extreme or outrageous conduct or allege that she witnessed any injury to a third party.

The trial court granted defendants' motion under MCR 2.116(C)(10). It concluded that plaintiff failed to establish that Arnold's criminal conduct was foreseeable or that defendants otherwise had a duty to prevent it. The court also dismissed plaintiff's gross-negligence, IIED, and NIED claims. This appeal followed.

## II. ANALYSIS

Plaintiff argues that summary disposition was improper because questions of fact remain regarding whether Arnold created the unauthorized master key while she was still employed and

whether defendants should have anticipated that Arnold could use the key after her termination, particularly once they learned of the March appliance thefts. We disagree.

We review de novo a trial court's decision on a motion for summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). A motion under MCR 2.116(C)(10) "tests the factual sufficiency of a claim." *Id*. at 120. In deciding such a motion, a court considers the parties' documentary evidence "in the light most favorable to the party opposing the motion." *Id*. The moving party bears the initial burden of supporting its position with documentary evidence, after which the burden shifts to the nonmoving party to establish a genuine issue of material fact. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996). A genuine issue of material fact exists when the record, "giving the benefit of reasonable doubt to the opposing party," leaves open an issue on which reasonable minds could differ. *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003). If the evidence fails to establish a genuine issue regarding any material fact, "the moving party is entitled to judgment as a matter of law." *Maiden*, 461 Mich at 120.

To establish negligence, a plaintiff must prove duty, breach, proximate cause, and damages. *Jeffrey-Moise v Williamsburg Towne Houses Coop, Inc*, 336 Mich App 616, 626; 971 NW2d 716 (2021). "The threshold question in a negligence action is whether the defendant owed a legal duty to the plaintiff." *Id*. Whether a defendant owes a plaintiff a legal duty is a question of law. *Kandil-Elsayed v F & E Oil, Inc*, 512 Mich 95, 112; 1 NW3d 44 (2023). Accordingly, before considering whether defendants should have taken additional security measures, we must first determine whether the law imposed a duty requiring them to do so.

Michigan law limits a landlord's duty to protect tenants and their invitees from the criminal acts of third parties. *Bailey v Schaaf*, 494 Mich 595, 615-616; 835 NW2d 413 (2013). Because criminal conduct is generally irrational and unpredictable, a landlord may presume that tenants and their invitees will obey the criminal law "until a specific situation occurs on the premises that would cause a reasonable person to recognize a risk of imminent harm to an identifiable invitee." *Id*. at 615. "Notice is critical" because it alerts the landlord to the particular risk of imminent harm. *Id*. A landlord generally has no duty to respond to criminal activity occurring within a tenant's leasehold. *Id*. at 616. When criminal activity occurring on premises under the landlord's control does give rise to a duty, that duty is limited to making "reasonable efforts to expedite police involvement." *Id*. at 615-616. The landlord is not required to provide police protection or otherwise guarantee the safety of its tenants or their invitees. *Id*.

Applying these principles, plaintiff has not identified evidence creating a genuine issue of material fact regarding defendants' notice of a specific, imminent risk that Arnold would unlawfully enter plaintiff's apartment. Defendants terminated Arnold for performance-related reasons, not for theft, dishonesty, misuse of the key system, or other misconduct suggesting that she posed a security risk to other residents. Masi testified that Arnold had no prior history of unethical conduct. Defendants also deactivated the master key that was assigned to Arnold when her employment ended. Thus, when Arnold remained at the property after her termination, she did so as a tenant. Without some additional circumstance indicating otherwise, defendants were entitled to presume that she would obey the law. *Bailey*, 494 Mich at 615.

Nor does the possibility that Arnold may have created the unauthorized master key while she was still employed alter the duty analysis. Even assuming that she did so, plaintiff presented no evidence that defendants knew the key existed before the April 29 break-in. The system's ability to permit creation of an unregistered master key may explain how Arnold later obtained access, but the existence of a technological vulnerability is not itself notice that Arnold had exploited it or that plaintiff faced an imminent criminal threat. Thus, the disputed timing of when Arnold created the key is not material to whether defendants had a legal duty to take the additional precautions plaintiff proposes. A factual dispute defeats summary disposition only if the disputed fact is material to the governing law. *West*, 469 Mich at 183.

The March appliance thefts likewise did not supply the missing notice. Those thefts gave defendants notice that criminal activity had occurred at the property, but nothing then known to defendants connected the thefts to Arnold or to any particular threat against plaintiff. Masi contacted police as soon as he learned of the appliance thefts, and the officers advised him that similar thefts had occurred at nearby construction sites. That response reinforced, rather than undermined, the absence of information identifying Arnold or the electronic key system as the source of the problem. Plaintiff's argument that an audit might have uncovered the unauthorized key asks us to reason backward from what defendants learned only after her apartment was entered. But *Bailey* turns on notice of a specific risk before the criminal act, not on whether additional investigation in hindsight might have revealed the means by which a crime was committed.

Plaintiff also faults defendants for failing to reprogram every apartment door after the March thefts. Yet even when a landlord has notice sufficient to trigger a duty to respond to criminal activity on premises within its control, *Bailey* requires only "reasonable efforts to expedite police involvement." *Bailey*, 494 Mich at 616. Defendants did that. Plaintiff's proposed obligation to investigate access logs and reprogram the entire complex would expand the landlord's duty well beyond the limited duty recognized in *Bailey*. We may not impose that broader obligation simply because those precautions, viewed after the fact, might have prevented Arnold's later conduct.

In short, the evidence permitted an inference that Arnold possessed and used an unauthorized master key, but it did not permit a reasonable inference that defendants knew or should have known before April 29, 2022, that Arnold possessed such a key or intended to use it to enter plaintiff's apartment. Because plaintiff failed to establish the notice necessary to create a duty to protect her from Arnold's criminal conduct, her ordinary-negligence claim fails as a matter of law. The trial court therefore properly granted defendants' motion for summary disposition under MCR 2.116(C)(10).[2]

[2] Plaintiff offers only cursory treatment of her gross-negligence claim, without supporting authority, and does not address her IIED or NIED claims at all. We thus consider those issues abandoned. We decline to address them. See *Bronson Methodist Hosp v Mich Assigned Claims Facility*, 298 Mich App 192, 199; 826 NW2d 197 (2012).

Affirmed.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett