

that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21. I affirm.

Rios was a tenant of Justmann in an apartment that had another tenant on the floor above. There were serious issues between the two tenants, occasionally resulting in police being called. Justmann brought an action in small claims court for eviction for non-payment of rent. Rios testified at the eviction hearing² that she stopped paying rent because the actions of the upstairs neighbor were interfering with her ability to live in the apartment. She further testified that she withheld the rent because Justmann “wouldn’t do anything for almost three months.” Justmann testified in response:

Once I started getting the calls I did take action, gave [the upstairs tenant] a verbal warning and then a written warning in the middle of May. And then [the upstairs tenant] ... voluntarily said they would move out. When [the upstairs tenant] did not move out on the date that I gave them, I gave them a 14-day notice as well and later they were out of the apartment.

Rios offered no legal argument that Justmann was responsible for the actions of the upstairs tenant or that the actions that Justmann took were not appropriate or adequate. The court granted eviction for non-payment of rent. Rios appeals.

² By consent of the parties, this eviction was heard together in the same small claims hearing as a small claims complaint that Rios brought against Justmann based upon the same factual situation. The judgment of the circuit court in that action was affirmed in a separate appeal. *See Rios v. Justmann*, No. 2018AP1498, unpublished slip op. (April 4, 2019).

On appeal, Rios offers no developed argument in her brief. As best I can tell, she is attempting to claim constructive eviction³ based upon the actions of the upstairs tenant. However, she offers no theory applying relevant authority that the actions of a tenant, as opposed to a landlord, can result in constructive eviction, nor that Justmann breached any duty toward her.

Rios's brief is entirely composed of her view of the facts, but she does not argue that any factual finding of the circuit court was clearly erroneous, nor provide references to the record to support her factual assertions, some of which appear to be outside the record. As Rios fails to develop any coherent arguments applying relevant authority to the facts of record to identify reversible legal errors, I need not, and do not, address any

³ The doctrine of constructive eviction has been described by the Wisconsin Supreme Court:

“‘It is now well established that any disturbance of the tenant's possession by the landlord, or someone acting under his authority, which renders the premises unfit for occupancy for the purposes for which they were demised or which deprives the tenant of the beneficial enjoyment of the premises, causing him to abandon them, amounts to a constructive eviction, provided the tenant abandons the premises within a reasonable time.’”

‘A mere slight temporary inconvenience to the tenant does not justify him in throwing up his lease. A trivial breach is not sufficient, but the breach must be substantial and of such duration that it can be said that the tenant has been deprived of the full use and enjoyment of the leased property for a material period of time’”

“The landlord is entitled to notice ... and has a reasonable time after notice is given to remedy the defect complained of, and until such time has elapsed the tenant has no right to quit the premises because of the alleged breach.’”

First Wis. Trust Co. v. L. Wiemann Co., 93 Wis. 2d 258, 268, 286 N.W.2d 360 (1980) (quoted sources omitted).

issues on appeal given the inadequacies of Rios's brief. See *State v. Pettit*, 171 Wis. 2d 627, 646-47, 492 N.W.2d 633 (Ct. App. 1992) (regarding undeveloped and unsupported arguments).

Upon the foregoing,

IT IS ORDERED that the judgment is summarily affirmed pursuant to WIS. STAT RULE 809.21.

IT IS FURTHER ORDERED that this summary disposition order will not be published.

Sheila T. Reiff
Clerk of Court of Appeals