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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0873**

Elsie Mayard,
Appellant,

vs.

Excel Energy, Northern States Power Company,
Respondent.

**Filed June 10, 2008
Affirmed
Minge, Judge**

Ramsey County District Court
File No. C5-07-2804

Elsie M. Mayard, 755 West Minnehaha Avenue, St. Paul, MN 55104 (pro se appellant)

Bray Dohrwardt, Briggs and Morgan, P.A., 2200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402-2157 (for respondent)

Considered and decided by Connolly, Presiding Judge; Kalitowski, Judge; and Minge, Judge.

UNPUBLISHED OPINION

MINGE, Judge

Appellant challenges the denial of her request for relief against Excel Energy, Northern States Power Company (NSP). Because we find that the district court did not abuse its discretion in dismissing appellant's claim against NSP with prejudice, we affirm.

FACTS

Appellant Elsie M. Mayard sued NSP on March 27, 2007, claiming that she was unlawfully deprived of electrical service at a business address—2132 Wabash Street, Suite B, St. Paul (“2132 Wabash Street” or “the premises”). The district court understood that Mayard was demanding immediate electric service and set a hearing for March 30. The district court notified NSP of the hearing the night before, and NSP presented as much information at the hearing as possible on short notice. Because NSP was provided with inadequate notice and because the documents submitted by Mayard are difficult to understand, the district court treated Mayard’s request for immediate service as a motion for a temporary injunction and allowed NSP to provide supplemental material. NSP objected to temporary relief, contested the underlying claim, supplied affidavits, conducted abbreviated discovery, and requested dismissal of Mayard’s action and attorney fees. After considering the testimony and written submissions, the district court denied injunctive relief and dismissed the claim against NSP with prejudice.¹ This appeal follows.

DECISION

Although Mayard does not concisely state the issue for review, we conclude the primary issue on appeal is whether the district court abused its discretion by denying Mayard’s request for temporary relief and dismissing her action with prejudice.

¹ We note that the district court also granted NSP attorney fees, but the district court did not list a dollar amount or specify reasons for the award. Mayard does not challenge and we have not considered this aspect of the district court’s decision on appeal.

“A decision on whether to grant a temporary injunction is left to the discretion of the trial court and will not be overturned on review absent a clear abuse of that discretion.” *Carl Bolander & Sons Co. v. City of Minneapolis*, 502 N.W.2d 203, 209 (Minn. 1993). When exercising its discretion to grant injunctive relief, a district court weighs: (1) the nature and history of the parties’ relationship; (2) the harm suffered as a result of the grant of an injunction compared to that resulting from the denial of such relief; (3) the likelihood of success on the merits; (4) public-policy considerations; and (5) the administrative burdens to supervise and enforce the injunctive relief. *Dahlberg Bros., Inc. v. Ford Motor Co.*, 272 Minn. 264, 274-75, 137 N.W.2d 314, 321-22 (1965). A district court’s findings regarding entitlement to injunctive relief will not be set aside unless clearly erroneous. *LaValle v. Kulkay*, 277 N.W.2d 400, 402 (Minn. 1979). Furthermore, we review a dismissal with prejudice under an abuse-of-discretion standard. *Mercer v. Andersen*, 715 N.W.2d 114, 120 (Minn. App. 2006).

The district court weighed the five *Dahlberg* factors in light of its findings in the case. First, the district court considered the nature of the relationship between the parties. Mayard made numerous requests for NSP to connect electrical service to a business she claimed to own. The district court found, however, that Mayard failed to provide credible documentation to either NSP or the district court showing proof of sale. The owner of 2132 Wabash Street stated that Mayard did not have a lease to operate a business at the premises as required under the purchase agreement, and the previous owner continued paying rent for the property. The district court also noted that in March 2007, Mayard told NSP at different times that she did not want to pay the \$100,000

purchase price for the business and that the final closing on the business purchase would not happen until March 22, 2008. Based on the evidence provided by Mayard and NSP, the district court concluded that Mayard was not the legitimate owner of the business located at 2132 Wabash Street and that the relationship between the parties was fictitious.

Second, because the district court found that Mayard was not the owner of the business at the premises in question, it concluded that she could not be damaged by NSP's refusal to provide electrical service and that she could not show irreparable harm requiring injunctive relief. Third, without evidence of ownership, the district court found that Mayard had no prospect of prevailing on the merits of her claim.

Fourth, the district court concluded that public policy considerations weighed against the court's reviewing NSP's business judgment in determining what evidence of bona fide ownership should be supplied as a condition of receiving electrical service. NSP stated that it has encountered business customers with past-due balances who have attempted to continue receiving service while avoiding responsibility for their balances. They pretend to sell businesses to new owners, establish service under different business names, and then continue to operate the old businesses.

Here, Mayard claimed to have purchased the business from a person she ultimately identified as Tim Whiteis. NSP had previously disconnected the predecessor business run by Whiteis in South St. Paul and was trying to collect approximately \$47,000 in unpaid bills. NSP subsequently transferred the debt to 2132 Wabash Street where Whiteis continued the business under a different name and requested new electrical service. Whiteis failed to make further payments totaling approximately

\$12,000 more. The district court essentially decided that, absent a showing that NSP abused its discretion, the courts should avoid reviewing a refusal to extend service to entities or persons with delinquent account balances.

Finally, the district court looked at the administrative burden consideration. It decided that it could not monitor the injunctive relief. This consideration is virtually the same as the public policy just discussed. Given information in the record that Mayard has an extensive litigation history, which includes various disputes with NSP,² we defer to the judgment of the district court that it would have been unduly burdensome to attempt to supervise and enforce the injunctive relief if granted.

Based on our review of this difficult record, we conclude that the district court's findings are supported by the record and that the district court carefully and properly weighed the relevant *Dahlberg* considerations before denying Mayard's request for injunctive relief.

Mayard's brief alludes to a plethora of other wrongs that NSP and its counsel have allegedly committed. References are made to abuse of discretion, deprivation of civil rights, threats, pain, emotional stress, matter of justice, false statements, sham arguments, financial hardship, reprisal, requirement of justice, intentional harm, failure to prove beyond a reasonable doubt, wrongful comments about Mayard's "immigration status deportation," slander, slander per se, federal privacy rights, negligence, exploiting an illegal alien, lack of fair trial, unfair business practice, fraud, improper influence,

² The record indicates that Mayard has been involved with over 20 lawsuits since 1992 against various federal, state, municipal, public, and private entities, including five previous suits against NSP.

harassment on basis of national origin and marital status, meeting of the minds, harassment, equitable relief, and prejudice. None of these words and phrases are either adequately explained, briefed or related to the record in any way that raises a meritorious issue on appeal.

Based on this record, we conclude that Mayard's complaint and other documents do not supply sufficient information to state a facially credible cause of action and that the district court did not err in denying an injunction and dismissing Mayard's action with prejudice.

Affirmed.

Dated: