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**STATE OF MINNESOTA
IN COURT OF APPEALS
A07-0988**

Gregory A. Krueger,
Appellant,

vs.

Canabury Condominium Association,
Respondent.

**Filed April 22, 2008
Affirmed
Crippen, Judge***

Ramsey County District Court
File No. C3-06-3889

Gregory A. Krueger, 41 Round Lake Trail, Little Canada, MN 55117 (pro se appellant)

William L. Davidson, Mark A. Fredrickson, Lind, Jensen, Sullivan & Peterson, 150
South Fifth Street, Suite 1700, Minneapolis, MN 55402-4217 (for respondent)

Considered and decided by Schellhas, Presiding Judge; Halbrooks, Judge; and
Crippen, Judge.

UNPUBLISHED OPINION

CRIPPEN, Judge

Appellant Gregory Krueger challenges the district court's order denying him a
continuance and granting summary judgment to respondent Canabury Condominium

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

Association. Because appellant had an adequate opportunity to prepare for the summary judgment hearing and retain counsel, the district court did not abuse its discretion by refusing to continue the hearing. Because appellant failed to raise sufficient evidence of essential elements of his negligence claim, the district court did not err in granting summary judgment.

DECISION

Continuance

The district court's decision regarding a motion for continuance will not be reversed absent a clear abuse of discretion. *Dunshee v. Douglas*, 255 N.W.2d 42, 45 (Minn. 1977). A court abuses its discretion when the denial of a continuance prejudices the outcome of a trial. *Weise v. Comm'r of Pub. Safety*, 370 N.W.2d 676, 678 (Minn. App. 1985). Appellant had adequate notice of the summary judgment hearing, more than two months to contact an attorney, and two or more reminders to produce evidence and provide the names of expert witnesses. Moreover, he failed to show the prospect for recovery of further evidence that would establish unproven elements of his claim. The district court did not abuse its discretion by refusing to order a continuance.

Summary Judgment

To sustain a claim for negligence, a plaintiff must prove, among other things, that the defendant had a legal duty to the plaintiff and that the breach of this duty was the proximate cause of the harm to the plaintiff. *Gilbertson v. Leininger*, 599 N.W.2d 127, 130 (Minn. 1999). "A defendant is entitled to summary judgment as a matter of law when the record reflects a complete lack of proof on an essential element of plaintiff's

claim.” *Lubbers v. Anderson*, 539 N.W.2d 398, 401 (Minn. 1995). Appellant has failed to submit proof that respondent owed him a duty of care, which generally does not exist absent a special relationship. *Gilbertson*, 599 N.W.2d at 130-31. And although appellant has evidence of medical problems and apparently believes that they were caused by a breach of respondent’s duty, he has failed to submit proof that his injuries were proximately caused by respondents’ actions. *Lubbers*, 539 N.W.2d at 402. Appellant was required to present sufficient evidence to oppose summary judgment, *DLH, Inc. v. Russ*, 566 N.W.2d 60, 71 (Minn. 1999), and the court was not obliged to consider materials he submitted after the summary judgment hearing. *See Sullivan v. Spot Weld, Inc.*, 560 N.W.2d 712, 716 (Minn. App. 1997) (concluding that district court may not permit submission of evidence known to exist before hearing), *review denied* (Minn. Apr. 24, 1997).

Because appellant has failed to provide evidence that respondent breached a duty of care or that appellant’s injuries were proximately caused by respondent’s action, we conclude that the district court did not err by granting summary judgment to respondent.

Affirmed.