

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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COREY ANDERSON,

Plaintiff-Appellant,

v

REXFORD WHITE and JOY WHITE,

Defendants-Appellees.

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UNPUBLISHED

August 21, 2014

No. 315437

Oakland Circuit Court

LC No. 2012-131156-CH

Before: RIORDAN, P.J., and DONOFRIO and BOONSTRA, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order dismissing his complaint with prejudice for lack of subject-matter jurisdiction under MCL 600.2918. We reverse and remand for further proceedings consistent with this opinion.

**I. PERTINENT FACTS AND PROCEDURAL HISTORY**

Plaintiff entered a lease agreement with defendants in August of 2012. By October of 2012, plaintiff was allegedly behind on his rent payments, and in late November of 2012, defendants allegedly locked plaintiff out of the premises. Thereafter, plaintiff filed a pro se complaint in the trial court alleging violation of the anti-lockout statute, MCL 600.2918, statutory conversion, MCL 600.2919a, violation of MCL 600.5701, and violation of his constitutional rights under the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution. Defendants did not file a responsive pleading or take other action during the time required by MCR 2.108(A). However, in February of 2013, defendants filed a motion for summary disposition pursuant to MCR 2.116(C)(4) for lack of subject-matter jurisdiction. Defendants argued that plaintiff had failed to assert that the amount in controversy exceeded \$25,000. Thereafter, on March 5, 2013, plaintiff filed an amended complaint to include a claim for damages in the amount of \$248,534.<sup>1</sup> The trial court did not expressly rule on defendants' motion, but dismissed the case for lack of subject-matter jurisdiction. The court held:

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<sup>1</sup> MCR 2.118(A) provides that a "party may amend a pleading once as a matter of course within 14 days of being served with a responsive pleading by an adverse party, or within 14 days after serving the pleading if it does not require a responsive pleading." Here, because defendants did

Under MCL 600.2918, a person would have the option of pursuing an action for possession under MCL 600.5714(1)(d) [summary proceedings in the district court] or bringing a claim for injunctive relief in the appropriate circuit court. Here, a review of the Complaint shows it does not assert any claim for injunctive relief. Accordingly, this Court lacks jurisdiction to decide this matter. [Brackets in order.]

## II. STANDARD OF REVIEW

This Court reviews de novo questions about whether a trial court has jurisdiction. *Harris v Vernier*, 242 Mich App 306, 309; 617 NW2d 764 (2000). A challenge to a court's subject-matter jurisdiction cannot be waived and may be raised at any time. *Electronic Data Sys Corp v Flint Twp*, 253 Mich App 538, 545; 656 NW2d 215 (2002).

## III. ANALYSIS

The trial court erred in determining that it lacked subject-matter jurisdiction in this matter. The circuit court has "original jurisdiction in all matters not prohibited by law." Const 1963, art 6, § 13. Further, MCL 600.605 provides:

Circuit courts have original jurisdiction to hear and determine all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.

MCL 600.2918(5) allows "[a] person who has lost possession or whose possessory interest has been unlawfully interfered with . . . to bring an action for possession pursuant to section 5714(1)(f)<sup>2</sup> or bring a claim for injunctive relief in the appropriate circuit court." (Emphasis added.) However, the statute also provides that "[a] claim for damages pursuant to this section may be joined with the claims for possession and for injunctive relief or may be brought in a separate action." MCL 600.2918(5) (emphasis added). Here, plaintiff's complaint repeatedly asserted that plaintiff was entitled to damages. As is clear from the statute, he was permitted to make a claim for damages in a separate action. Thus, the trial court erred in dismissing his claim based on its conclusion that it could only have jurisdiction over plaintiff's claim if plaintiff made a claim for injunctive relief.

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not file a responsive pleading, it appears that the first 14-day period did not begin to run. Also, because a responsive pleading was required, the second 14-day period is inapplicable. MCR 2.118(B) additionally allows a party to amend a pleading by leave of the court or with the adverse party's consent, but in this case, it is not clear whether a motion to amend was brought. In plaintiff's brief on appeal, he states that he filed a motion to amend his pleadings; however such a motion does not appear in the record provided to this Court, nor is one listed on the circuit court register of actions.

<sup>2</sup> The summary proceedings statute, MCL 600.5701 *et seq.*, provides that "[t]he district court, municipal courts and the common pleas court of Detroit have jurisdiction over summary proceedings to recover possession of premises." MCL 600.5704.

Moreover, apart from the jurisdictional issue relating to the anti-lockout claim, plaintiff raised additional claims in his complaint, including claims for statutory conversion and alleged constitutional violations. Thus, regardless of the jurisdictional issue with regard to MCL 600.2918, the trial court erred in dismissing the other claims on grounds that there was no injunctive claim.

Defendants argued below that the trial court lacked subject matter jurisdiction pursuant to MCL 600.8301(1) because the amount in controversy did not exceed \$25,000. Although the trial court did not directly address defendant's argument concerning plaintiff's failure to state the amount in controversy, we note, in the event that the trial court is faced with this issue on remand, that plaintiff did allege an amount in controversy in excess of \$25,000 in his amended complaint. Further, plaintiff's failure to allege an amount in controversy in his original complaint should have resulted, at most, in a dismissal without prejudice; a more likely result would have simply been a grant of leave to amend, which is within the discretion of the trial court but should be freely given when justice so requires. See MCR 2.118(A)(2); *Weymers v Khera*, 454 Mich 639, 658; 563 NW2d 647 (1997).

Plaintiff raises several other issues on appeal, but as none of those issues were first addressed by the trial court, we decline to address them on appeal. *Polkton Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005). Nothing in this opinion should be taken as an opinion on the ultimate merit of plaintiff's claims, or the sustainability of his damage claims; rather our opinion is limited to a determination that the trial court erred in its determination that it lacked subject-matter jurisdiction over plaintiff's claims.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael J. Riordan  
/s/ Pat M. Donofrio  
/s/ Mark T. Boonstra