

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CRYSTAL G. BREEDLOVE,

Plaintiff,

v.

Case No. 21-1170-JWB

PAUL BURGHART, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is before the court on a Report and Recommendation (“R&R”) (Doc. 6) by Magistrate Judge Gwynne Birzer. The R&R recommends that this action be dismissed on the basis that this court lacks subject matter jurisdiction. (Doc. 6.) The record shows that Plaintiff was served with a copy of the R&R. (Doc. 7.) Plaintiff had 14 days after service of the R&R to file objections, but she has not done so. Under Fed. R. Civ. P. 72(b), the court is only required to review de novo “any part of the magistrate judge’s disposition that has been properly objected to.” *See also* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). The court has nevertheless reviewed the magistrate judge’s recommendations in this matter and concludes the R&R is appropriate and should be adopted in its entirety.

In brief, Plaintiff’s complaint concerns a rental dispute with Defendant Paul Burghardt, the property manager who is a Kansas citizen, and Ihssan Tbab, the purported property owner who is a Texas citizen. Plaintiff alleges that Burghardt has evicted her although she has paid rent for the month of July. In the complaint, Plaintiff has identified diversity as the jurisdictional basis for her claim. Magistrate Judge Birzer recommended dismissal after determining that the parties are not

diverse. Magistrate Judge Birzer further determined that Plaintiff's conclusory allegations do not establish federal question jurisdiction. The court agrees. Plaintiff has failed to establish that this court has subject matter jurisdiction over this action and the case must be dismissed. Although Magistrate Judge Birzer alternatively found that Plaintiff's complaint fails to state a claim, the court declines to address that determination in light of this court's finding that it lacks subject matter jurisdiction.

Therefore, the court ADOPTS the R&R (Doc. 6) in part as stated herein. Plaintiff's complaint is hereby DISMISSED as to all Defendants as recommended in the R&R. Plaintiff's motion to proceed in forma pauperis (Doc. 3) is DENIED.

IT IS SO ORDERED. Dated this 14th day of September 2021.

____ s/ John Broomes _____
JOHN W. BROOMES
UNITED STATES DISTRICT JUDGE