

No. 1-11-0288

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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JING SHEN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 10 M1 190729
	)	
MARVIN SOTO,	)	Honorable
	)	Thomas Lipscomb,
Defendant-Appellee.	)	Judge Presiding.

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JUSTICE SALONE delivered the judgment of the court.  
Justices Neville and Murphy concurred in the judgment.

**ORDER**

*Held:* Plaintiff appellant failed to provide this court with a sufficiently complete record to reach the merits of her case. The judgment of the circuit court was affirmed.

¶ 1 Plaintiff Jing Shen appeals *pro se* from a circuit court order entered on her complaint against her landlord, Marvin Soto, for the return of her security deposit and other damages. Although plaintiff was awarded an amount apparently equal to the security deposit, she contends she is entitled to court costs and additional relief.

¶ 2 The limited common law record reveals that in September 2010, plaintiff filed a *pro se* complaint against defendant in the amount of \$1,500, plus court costs, for failing to return her security deposit. Plaintiff also alleged that defendant failed to maintain the apartment's heating, plumbing, and "many other things" during her tenancy. Plaintiff requested double the security deposit and a refund on her rent.

¶ 3 On December 21, 2010, a trial was held on the complaint. A month later, the court issued an order finding for plaintiff in the amount of \$630. The court stated it had indicated earlier that if defendant paid plaintiff \$630, the court would dismiss the case. The court, finding the payment was tendered in full to plaintiff, accordingly dismissed the case. Plaintiff timely appealed from that order.

¶ 4 Although petitioner has elected not to file an appellee's brief, we may review this case pursuant to the principles stated in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976). Because the record is incomplete, however, we are precluded from reaching the merits of plaintiff's claim.

¶ 5 It is well established that the appellant bears the burden of providing a reviewing court with a complete record which fairly and fully presents all matters necessary and material for a decision of the question raised, and in the absence of such a record, we will not speculate as to what errors may have occurred below. *Smolinski v. Vojta*, 363 Ill. App. 3d 752, 757 (2006); *see also Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). When the record on appeal is incomplete, a reviewing court should actually indulge in every reasonable presumption favorable to the judgment from which the appeal is taken, including that the trial court ruled or acted correctly. *Smolinski*, 363 Ill. App. 3d at 757-58.

¶ 6 Plaintiff contends she is entitled to court costs. She also contends the court abused its discretion by dismissing the case. Plaintiff is correct that generally the prevailing party in any action arising out of "a \*\*\* tenant's application of the rights or remedies made available" in the

Chicago Municipal Code is "entitled to all court costs and reasonable attorney's fees[.]" See Chicago Municipal Code §5-12-180 (added November 6, 1991). Here, plaintiff apparently sued defendant for his failure to return her security deposit after she moved out of the apartment. See Chicago Municipal Code §5-12-080(d) (amended July 28, 2010).

¶ 7 Nevertheless, we do not have a transcript, bystander's report, or agreed statement of facts reflecting the evidence presented at trial or the hearing before the trial court upon entry of its order. See Ill. S. Ct. R. 323 (eff. Dec. 13, 2005). As a result, we are unable to determine why the court chose to award plaintiff less than half of what she claimed in her complaint, and we cannot discern why the court ultimately decided to dismiss the case after awarding plaintiff a monetary sum. In such an instance, we must presume the court heard evidence sufficient to justify its decision. See *Smolinski*, 363 Ill. App. 3d at 757-58.

¶ 8 Based on the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 9 Affirmed.