

2013 IL App (1st) 112658-U

FIFTH DIVISION  
April 26, 2013

No. 1-11-2658

**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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OSAMA HADDAD,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant/Cross-Appellee,	)	Cook County.
	)	
v.	)	No. 11 M1 10983
	)	
MADELINE VOUDIGARIS,	)	Honorable
	)	Stanley Hill and
	)	Dorothy F. Jones,
Defendant-Appellee/Cross-Appellant.	)	Judges Presiding.

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PRESIDING JUSTICE McBRIDE delivered the judgment of the court.  
Justices Howse and Taylor concurred in the judgment.

**ORDER**

¶ 1 *Held:* Where a notice of appeal had already been filed, the trial court lacked jurisdiction to enter an order vacating the trial judgment. The trial court's order is vacated.

¶ 2 In this landlord-tenant dispute, tenant Madeline Voudigaris appeals *pro se* from the circuit court's judgment vacating a trial award in her favor and against the landlord, Osama Haddad. Although the appellee has not filed a response brief in this court, we may proceed under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 3 In February 2011, tenant filed suit against the landlord, seeking \$2,550. In May 2011, the landlord filed a complaint against tenant, seeking possession of the property and \$6,000. About two months later, in July 2011, the landlord filed a second complaint against tenant, seeking the same relief. Shortly thereafter, the trial court entered an order consolidating all three cases.

¶ 4 On August 17, 2011, the trial court heard the case and entered judgment for the tenant in the amount of \$1,850 plus costs. The landlord filed his notice of appeal from this judgment on September 8, 2011. On September 15, 2011, a different circuit court judge entered an order purporting to vacate the judgment of August 17, 2011, and dismiss the case. Four days later, tenant filed her notice of appeal.<sup>1</sup>

¶ 5 On appeal, tenant contends, among other things, that on September 15, 2011, the trial court lacked jurisdiction to vacate the trial judgment and dismiss the case, as the landlord had already filed a notice of appeal.

¶ 6 Tenant is correct that when a proper notice of appeal is filed, the trial court is divested of jurisdiction to enter further substantive orders in a case. *R.W. Dunteman Co. v. C/G Enterprises*, 181 Ill. 2d 153, 162 (1998). Upon the filing of a proper notice of appeal, the jurisdiction of the appellate court attaches *instantly*, rendering the cause beyond the jurisdiction of the trial court. *State ex rel. Beeler, Schad and Diamond, P.C. v. Target Corp.*, 367 Ill. App. 3d 860, 863 (2006). As a consequence, any order entered by a trial court after being divested of jurisdiction by the filing of a notice of appeal is void and must be vacated. *Wierzbicki v. Gleason*, 388 Ill. App. 3d 921, 926-27, 931 (2009).

¶ 7 Here, following a trial, the trial court entered judgment in tenant's favor. That judgment was a final order subject to appeal. *Lamar Whiteco Outdoor Corp. v. City of West Chicago*, 395

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<sup>1</sup>We note that the landlord moved to withdraw his appeal on November 10, 2011, and that this court granted his motion on November 23, 2011.

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Ill. App. 3d 501, 504-05 (2009) ("A judgment is final if it determines the litigation on the merits so that, if affirmed, the only thing remaining is to proceed with execution of the judgment."). When the landlord filed his notice of appeal, the trial court was divested of jurisdiction. Accordingly, the trial court's subsequent order vacating the trial judgment and dismissing the case is void. As such, we vacate the trial court's order of September 15, 2011.

¶ 8 For the reasons explained above, we vacate the judgment of the circuit court of Cook County.

¶ 9 Order vacated.