

No. 1-14-0755

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

JACQUWLYN JACKSON,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 13 M6 3737
)	
WAYPOINT HOMES, LLC and SPECIALTY HOMES,)	Honorable
)	Thomas J. Condon,
Defendants-Appellees.)	Judge Presiding.

JUSTICE ROCHFORD delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

ORDER

- ¶ 1 **Held:** We affirmed the judgment of the trial court because plaintiff failed to provide a sufficient record in support of her claims that her requests for a jury trial were disregarded and the evidence did not support the trial court's judgment.
- ¶ 2 Plaintiff, Jacquwlyn Jackson, filed a *pro se* breach of contract complaint against defendants, Waypoint Homes, LLC (Waypoint), and Specialty Homes LLC (Specialty) (collectively known as, defendants), which sought the return of her security deposit from defendants. Following a bench trial, the trial court found in favor of defendants.

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¶ 3 On appeal, plaintiff argues that the trial court erred by disregarding her written and oral requests for a jury trial and entering judgment in favor of defendants after a bench trial. Although an appellee's brief has not been filed by defendants, we may consider this appeal under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128 (1976).

¶ 4 In her complaint, plaintiff alleged that on August 31, 2012, she entered into a one-year residential lease with Specialty for the property located at 16949 Briargate Drive in Country Club Hills, and provided Specialty with a security deposit in the amount of \$2,000. In December 2012, the property was sold to Waypoint. On August 31, 2013, when her lease terminated, plaintiff did not renew it.

¶ 5 Plaintiff alleged that the residence was vacant as of September 5, 2013; she had the property cleaned before she vacated the premises; she personally returned the keys to Waypoint; and that, after a walk-through, no damages were reported by a field inspector for Waypoint. Plaintiff further asserted that her security deposit had not been returned, and she had not received an explanation. Plaintiff requested damages of \$4,000, plus interest.

¶ 6 On November 14, 2013, defendants appeared and the circuit court continued the cause for "trial" to December 5, 2013. The order does not indicate that the trial was to proceed before a jury.

¶ 7 On December 5, 2013, after a bench trial, the trial court entered judgment in favor of defendants, noting that plaintiff's lease actually terminated on September 4, 2013, not September 5, 2013. It is from that judgment which plaintiff now appeals.

¶ 8 On appeal, plaintiff first argues that the trial court deprived her of a jury trial, despite her

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timely written and oral requests for a jury trial.

¶ 9 Under Illinois Supreme Court Rule 285, a small claim is to be tried by the circuit court unless a plaintiff requests a jury trial at the time the action is commenced. Ill. S. Ct. R. 285 (eff. Jan. 1, 1964). The circuit court's decision to deny a request for a jury trial is reviewed under an abuse of discretion standard. *De Kalb Bank v. Purdy*, 205 Ill. App. 3d 62, 75 (1990); *Hernandez v. Power Const. Co.*, 43 Ill. App. 3d 860, 864 (1976).

¶ 10 First, we address plaintiff's claim that she made a timely-written jury demand. Plaintiff's complaint does not request a jury and, because her fees were waived, there is no evidence of payment of a jury fee. The record on appeal includes a form entitled: "Civil Action Cover Sheet" (sheet). The sheet contains form language stating that it was to be filed with the complaint in all civil actions, but "[t]he information contained herein is for administrative purposes only and cannot be introduced into evidence." The form includes a typed "x" in a box "yes" next to the words "Jury Demand" and in a box next to "Breach of Contract." However, there is nothing demonstrating that plaintiff herself completed this form, although it includes her signature. Also, the record does not reflect that the trial court was made aware of this document. Finally, plaintiff makes no argument on appeal that the sheet constitutes a valid timely written jury demand and, thus, has forfeited this argument. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013, as amended).

¶ 11 Plaintiff also maintains that the circuit court denied her oral request for a jury trial, however, there is nothing in the record which supports her contention. Indeed, the common law record is bereft of any evidence that plaintiff made an oral request for a jury trial, and the record does not support plaintiff's claim that the circuit court denied her oral request for a jury trial.

¶ 12 As the appellant, the plaintiff had the responsibility of providing a complete record

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(*Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)), and, in the absence of such, the reviewing court must presume that the trier of fact had ample grounds to support its ruling. *Rock Island County v. Boalbey*, 242 Ill. App. 3d 461, 462 (1993). Here, plaintiff has not provided sufficient record support for her claims of having made a jury demand, nor a transcript of the court proceedings, nor an acceptable substitute, under Supreme Court Rule 323. Ill. S. Ct. R. 323 (eff. Dec. 13, 2005). Therefore, we presume the trial court acted properly in conducting a bench trial.

¶ 13 In her notice of appeal, plaintiff indicates that her case proceeded to a bench trial due to a processing error made by the circuit court clerk. Although this suggests that plaintiff participated in a bench trial without objection and, in doing so, waived her right to jury trial (*Power Elec. Contractors, Inc. v. Maywood-Proviso State Bank*, 60 Ill. App. 3d 685, 690-91 (1978)), the incompleteness of the record precludes any informed decision on the matter.

¶ 14 Plaintiff next argues that the trial court erred in entering judgment in favor of defendants. We review the findings of the trial court after a bench trial under a manifest weight of the evidence standard. *Dargis v. Paradise Park, Inc.*, 354 Ill. App. 3d 171, 177 (2004) " 'A judgment is against the manifest weight of the evidence only when an opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on evidence.' " *Id.* (quoting *Judgment Services Corp. v. Sullivan*, 321 Ill. App. 3d 151, 154 (2001)). Again, as to the trial, we are without a transcript of proceedings or acceptable substitute under Supreme Court Rule 323. Ill. S. Ct. R. 323 (eff. December 13, 2005, as amended). Therefore, we are without a record as to the evidence and testimony which were presented and any arguments which were made by the parties. Accordingly, we presume that the trial court acted in conformity with the law, and that its decision was supported by a sufficient factual basis. *Foutch*, 99 Ill. 2d at 392.

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¶ 11 In light of the foregoing, we affirm the judgment of the circuit court of Cook County.

¶ 12 Affirmed.