

No. 1-14-1179

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

ROSE M. JONES,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County
v.)	
)	No. 2014 M1 010253
JOSEPHINE CHIOVARI and SALVATORE)	
CHIOVARI,)	Honorable
)	Vanessa A. Hopkins,
Defendants-Appellees.)	Judge Presiding.

JUSTICE MASON delivered the judgment of the court.
Justice Lavin and Justice Hyman concurred in the judgment.

ORDER

- ¶ 1 *Held:* Trial court properly dismissed plaintiff's claims for emotional distress and under the Chicago Residential Landlord and Tenant Ordinance as time-barred.
- ¶ 2 Plaintiff-appellant Rose Jones is a former tenant of defendants-appellees Josephine and Salvatore Chiovari. After the Chiovaris evicted Jones in May 2011, Jones ultimately sued them on January 14, 2014, initially seeking recovery of damages for emotional injuries and later amending her complaint to seek return of her security deposit. Both claims were dismissed as untimely under the applicable statute of limitations. Because the trial court properly determined that both claims were time-

barred, we affirm.

¶ 3 Following the order of possession entered in the forcible entry and detainer action on May 2, 2011, Jones vacated the unit in early July. On July 26, 2011, Jones sent a letter to the Chiovaris demanding return of her security deposit. Jones sent additional demands on October 4 and 17.

¶ 4 On December 15, 2011, Jones filed a complaint with the Chicago Commission on Human Relations in which she claimed that the Chiovaris discriminated against her causing "many sleepless nights; anxiety and stress." Jones also complained that the Chiovaris refused to return her security deposit after an inspection of the unit revealed no damage. Jones later voluntarily withdrew her complaint.

¶ 5 Jones filed this lawsuit on January 14, 2014. In her original complaint, Jones alleged that the Chiovaris' conduct caused sleep deprivation, depression and extreme stress and that she suffered migraine headaches. Jones did not include any claim in her original complaint for return of her security deposit.

¶ 6 The Chiovaris moved to dismiss pursuant to section 2-619(a)(5) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(5) (West 2012)), on the ground that Jones' personal injury claim was barred by the two-year statute of limitations. 735 ILCS 5/13-202 (West 2012). During the hearing on the motion, Jones also mentioned that she was seeking return of her security deposit. The trial court granted the motion to dismiss the personal injury claim as time-barred, but allowed Jones leave to amend her complaint to assert a claim for the security deposit.

¶ 7 On March 14, 2014, Jones filed a document labeled "Motion by Rose Jones for Return of Security Deposit & Punitive Damages," which the court construed as an

amended pleading asserting a claim under the Chicago Residential Landlord and Tenant Ordinance (RLTO). Chicago Municipal Code §5-12-010 *et seq.* In response, the Chiovaris filed another motion to dismiss the claim as time-barred, this time invoking the two-year limitation period for actions to recover a statutory penalty. 735 ILCS 5/13-202 (West 2012). This motion was likewise granted and Jones timely appealed.

¶ 8 The Chiovaris initially contend and we agree that Jones' brief fails to comply with Illinois Supreme Court Rules 341 and 342 (eff. Feb. 16, 2013 and Jan. 1, 2005, respectively). Among other deficiencies, Jones' brief fails to contain a statement of facts with citations to the record or an argument with citations to relevant legal authority as required under Rule 341(h)(6) and (h)(7). Jones also failed to include with her brief the appendix required under Rule 342.

¶ 9 As our supreme court observed recently in *Lake County Grading Company, LLC v. Village of Antioch*, 2014 IL 115805, ¶ 36:

"[A] reviewing court is not simply a depository into which a party may dump the burden of argument and research.' *People ex rel. Illinois Department of Labor v. E.R.H. Enterprises, Inc.*, 2013 IL 115106, ¶ 56. 'A court of review is entitled to have the issues clearly defined and to be cited pertinent authority.' (Emphasis omitted.) *Id.* 'A point not argued or supported by citation to relevant authority fails to satisfy the requirements of Supreme Court Rule 341(h)(7), (i) (see Ill. S. Ct. R. 341(h)(7), (i) (eff. Feb. 6, 2013) [citation]).' Both argument and citation to relevant authority are required. *Id.* Where, as here, the issue ' "is merely listed or included in a vague allegation of error [it] is not "argued" and will not satisfy the

requirements of the rule." ' *Id.* (quoting *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010))."

¶ 10 *Pro se* litigants are not relieved of the duty to comply, as closely as possible, with procedural rules. *In re Marriage of Petrik*, 2012 IL App (2d) 110495, ¶ 38. Where an appellant's brief contains numerous Rule 341 violations and impedes our review of the case because of them, the court has the right to strike the brief and dismiss the appeal. *Geers v. Brichta*, 248 Ill. App. 3d 398, 400 (1993).

¶ 11 Although given the numerous deficiencies in Jones' brief, we would be justified in striking it and dismissing her appeal, the questions presented are straightforward and raise issues of law that we review *de novo*. *Kadlec v. Sumner*, 2013 IL App (1st) 122802, ¶ 6 (dismissal of complaint as barred by statute of limitations reviewed *de novo*). Accordingly, we exercise our discretion to review the merits of the issues raised.

¶ 12 Jones' claim for emotional distress is governed by the two-year statute of limitations applicable to personal injury claims. *Pavlik v. Kornhaber*, 326 Ill. App. 3d 731, 744 (2001) ("Emotional distress is a species of personal injury and is thus governed by the two-year prescriptive period"). The timeliness of a claim for personal injury is measured from the time the plaintiff knew or should have known that she was injured and that the injury was wrongfully caused. *Parks v. Kownacki*, 193 Ill. 2d 164, 176 (2000).

¶ 13 Here, Jones filed her complaint with the Chicago Commission on Human Relations on December 15, 2011. That complaint contained claims substantially similar to the emotional distress claims included in the complaint in this case, which was not filed until January 14, 2014, more than two years later. Because it is clear that Jones knew of her alleged injury and its claimed wrongful cause more than two years prior to

the date her complaint was filed, the trial court properly determined that the claim was time-barred.

¶ 14 Jones' claim arising out of the failure to return her security deposit is likewise untimely. Jones first demanded return of the deposit in July 2011 and again in October 2011. Along with one of the demands she submitted in October, Jones attached a highlighted copy of a summary of the RLTO, thus evidencing her awareness of its provisions. Our supreme court has determined that the provisions of the RLTO impose a statutory penalty and thus are governed by the two-year statute of limitations applicable to statutory penalty claims. *Landis v. Marc Realty*, 235 Ill. 2d 1, 3-4 (2009); 735 ILCS 5/13-202 (West 2012). Because Jones first asserted a claim seeking return of her security deposit in March 2014, more than two years after the claim arose, the trial court properly determined that the claim was untimely.

¶ 15 Jones argues that the statute of limitations had not yet expired in 2011 when she first demanded that the Chiovaris return her security deposit. She appears to be arguing that the statute of limitations should stop running as soon as a putative plaintiff makes would-be defendants aware of her grievances against them. This is not the law. For statutory penalty claims, "Actions for damages *** shall be commenced within 2 years next after the cause of action accrued." 735 ILCS 5/13-202 (West 2012). Despite her earlier letters, Jones did not actually commence her action, *i.e.*, file suit, until 2014. Accordingly, her claim is time-barred.

¶ 16 Finding no error in the trial court's dismissal of Jones' claims we affirm.

¶ 17 Affirmed.

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