

No. 1-13-3312

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

| | | |
|--------------------------------------|---|----------------------|
| MADLINE RICHARD, |) | Petition for Review |
| |) | from an Order of the |
| Petitioner-Appellant, |) | Illinois Labor |
| |) | Relations Board. |
| |) | |
| v. |) | No. 2013 CA 0055 C |
| |) | |
| ILLINOIS EDUCATIONAL LABOR RELATIONS |) | |
| BOARD, |) | |
| |) | |
| Respondent-Appellee, |) | |
| |) | |
| and |) | |
| |) | |
| UNIVERSITY OF ILLINOIS HEALTH |) | |
| SCIENCE SYSTEM, |) | |
| |) | |
| Respondent. |) | |

JUSTICE ROCHFORD delivered the judgment of the court.
Presiding Justice Hoffman and Justice Lampkin concurred in the judgment.

O R D E R

¶ 1 **Held:** We affirmed the decision of the Illinois Educational Labor Relations Board where petitioner failed to file a brief which complied with the applicable Illinois Supreme Court Rules after having been given an opportunity to do so.

¶ 2 Petitioner-appellant, Madeline Richard, was employed by respondent, University of Illinois Health Science System (university), in its materials management department (department) from September 2008 to November 2012, and was a member of the Service Employees International Union Local 73 (union). On October 4, 2012, petitioner was involved in an altercation with coworker, Clarence Triplett. On October 5, 2012, the university placed petitioner on paid administrative leave pending its investigation of the incident.

¶ 3 On November 9, 2012, the university sent petitioner a letter notifying her that it intended to initiate discharge proceedings against her based on the October 4, 2012, incident. In the letter, the university stated it intended to charge her with: (1) creating a hostile work environment; (2) engaging in threatening behavior toward a coworker; (3) using obscene language toward a coworker in the workplace; (4) providing false and misleading information to the department and the university police; and (5) engaging in unethical conduct. The university stated that M. Branch, a level II storekeeper, reported that during the October 4, 2012, altercation, petitioner had become irate with Mr. Triplett and had shouted obscenities. It was reported that she told Mr. Triplett that she hoped "he goes to hell and burn." The university also explained that petitioner's written statements about the altercation conflicted with written statements from witnesses and the report of a university police officer and contained discrepancies. The university concluded that petitioner's actions "as cited above are unacceptable and will not be tolerated," and that the university had no alternative but to initiate procedures for petitioner's discharge.

¶ 4 On November 27, 2012, the university suspended petitioner without pay pending discharge and issued written charges for discharge against her which charged her with the offenses listed in the November 9, 2012, letter. The written charges informed petitioner that

pursuant to the State Universities Civil Service System rules, if an employee does not file a written request for a hearing within 15 days after written charges for discharge are mailed or personally delivered, an employee's discharge becomes effective at the end of the 15-day period without further action. Petitioner was served with written charges by certified mail on November 27, 2012. Petitioner's discharge became effective on December 12, 2012.

¶ 5 On November 29, 2012, the union filed a grievance on behalf of petitioner which asserted that the university discharged petitioner without just cause.

¶ 6 Additionally, on December 24, 2012, petitioner *pro se* filed an unfair labor practice charge against the university with the Illinois Educational Labor Relations Board (Board) alleging the managers in the department: (1) subjected her to harassment and retaliation; (2) attempted to provoke her by taunting her; and (3) attempted to cause conflict between her and her coworkers because she exercised her union rights.

¶ 7 In the charge, petitioner claimed there had been prior incidents between her and Mr. Triplett, including one in June 2012 where Mr. Triplett had threatened to punch petitioner in the face and, as a result, he was suspended for 30 days. Petitioner stated that on October 4, 2012, it was Mr. Triplett who became hostile and verbally abusive toward her. Petitioner believed his anger stemmed from his June 2012 suspension. In support of her charge, petitioner submitted, among other documents, a copy of a grievance which was related to the June 2012 incident with Mr. Triplett and was based on a charge that the university had denied petitioner union representation at a disciplinary meeting, and the November 2012 grievance which asserted the university had discharged her without just cause based on the October 2012 altercation with Mr. Triplett.

¶ 8 On January 21, 2013, the university submitted its position statement to the Board, asserting that petitioner's charge should be dismissed in part because petitioner failed to present evidence which established *prima facie* violation of the Illinois Educational Labor Relations Act (Act) (115 ILCS 5/16 (West 2012)).

¶ 9 On June 14, 2013, after conducting an investigation, the executive director filed a recommended decision and order which dismissed petitioner's charge for failure to establish a *prima facie* case of an unfair labor practice under the Act. The executive director found that petitioner had engaged in union activity when the union filed a grievance on her behalf in June 2012, and in November 2012. The executive director found, however, that the university's decision to suspend and discharge petitioner could not have been caused by the filing of the November 2012 grievance since that grievance was filed after the university took its adverse action. Furthermore, there was no evidence of any casual connection between the June 2012 grievance and petitioner's suspension and discharge.

¶ 10 On July 10, 2013, petitioner filed exceptions to the executive director's recommended decision. In her exceptions, petitioner asserted, among other things: (1) she had reported each incident with Mr. Triplett to her managers; (2) she was never involved in any disciplinary proceedings while employed at the university; (3) she was not confrontational with Mr. Triplett during any of the incidents with Mr. Triplett; and (4) Mr. Triplett and her coworkers conspired to falsely state that she was the aggressor. The university filed a response asserting petitioner failed to address the executive director's finding that there was no evidence of a causal relationship between petitioner's termination and her engagement in protected activity.

¶ 11 On September 23, 2013, the Board issued its final decision which: (1) affirmed the executive director's dismissal of petitioner's charge; (2) found petitioner engaged in union activity when the union filed grievances on her behalf; and (3) found petitioner did not present evidence that the university discharged or suspended her because of these grievances. The Board found, as did the executive director, that petitioner's November 2012 grievance was filed after her suspension and discharge and, therefore, could not have caused these adverse actions and that, while her June 2012 grievance was filed before her suspension and discharge, petitioner did not present evidence that the filing of this grievance motivated the university's actions.

¶ 12 On October 24, 2013, petitioner filed a petition for review with this court seeking judicial review of the Board's dismissal of her unfair labor practice charge against the university under section 16 of the Act (115 ILCS 5/16 (West 2012)), and section 3-113 of the Administrative Review Law (735 ILCS 5/3-113 (West 2012)).

¶ 13 Petitioner then filed an appellant's brief with this court on January 2, 2014. On January 29, 2014, the Board moved to strike her appellant's brief and dismiss the appeal or, alternatively, for an extension of time to file its appellee's brief. The Board argued that the appellant's brief failed to comply with Illinois Supreme Court Rule 341(h) (Ill. S. Ct. R. 341(h) (eff. Feb. 6, 2013)), as it failed to present a developed argument supported by legal authorities and references to pages of the record, and failed to include a points and authorities section, a jurisdictional statement, and a statement of facts with references to pages of the record. On February 10, 2014, this court entered an order which denied the Board's motion to dismiss the appeal, but struck petitioner's appellant's brief. In the order, this court gave petitioner until March 18, 2014, "to file a new brief in compliance with Supreme Court Rule[s] in particular Supreme Court Rule 341."

Subsequently, petitioner was granted an extension of time to April 21, 2014, to file a compliant brief. She filed her appellant's brief within the time allowed by the extension.

¶ 14 The Board filed an appellee's brief on July 1, 2014, and, by order, the University was allowed to join the brief. The Board argues in its appellee's brief that petitioner again has failed to file an appellant's brief which complies with Supreme Court Rule 341(h). The Board states that petitioner's brief does not contain a developed argument with citation to law, nor references to pages of the record, nor a statement of facts with references to pages of the record. The Board also argues that petitioner has forfeited any argument as to the Board's decision by failing to present a cohesive argument with supporting legal authority. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). The Board asks that petitioner's appellant's brief be stricken and the appeal be dismissed.

¶ 15 Petitioner has not filed a reply brief. Petitioner took no steps to address the Board's objections to her appellant's brief, nor has she responded to the Board's renewed request to strike her brief and dismiss the appeal, which were raised in the Board's appellee's brief.

¶ 16 Petitioner's appellant's brief consists of a cover page, five typed pages, and a large group of attached documents. The brief begins with a section entitled as both "appendix, d[e]scription of documents," and "brief argument, statement, and nature of the case." This first section is a list which briefly identifies the multitude of documents which have been attached to the brief. The brief also includes: sections labeled as "points argued/reviewed" (a list of phrases such as "wrongful termination/adverse action taken against me;" "disparate treatment;" "defamation of character/attack of integrity/character letters;" and "violation of union representation"); a section entitled "nature of the case" (generally describing her history with Mr. Triplett); and a section

labeled "issues presented for review" (recounting some of her complaints against the university). The brief does not cite to pages of the record, nor to legal authorities.

¶ 17 Our supreme court has stated that supreme court rules " ' ' "are not aspirational. They are not suggestions. They have the force of law, and the presumption must be that they will be obeyed and enforced as written." ' ' " *Rodriguez v. Sheriff's Merit Com'n of Kane County*, 218 Ill. 2d 342, 353 (2006) (quoting *Roth v. Illinois Farmers Insurance Co.*, 202 Ill.2d 490, 494 (2002) (quoting *Bright v. Dicke*, 166 Ill.2d 204, 210 (1995))). A reviewing court is "entitled to have briefs submitted that are articulate and organized and that present cohesive legal argument in conformity with our Supreme Court rules." *Eckiss v. McVaigh*, 261 Ill. App. 3d 778, 786 (1994).

¶ 18 Petitioner has not obeyed the rules as to the form of her appellant's brief. Specifically, petitioner has filed an appellant's brief that fails to comply with Rule 341(h)(6), (h)(7), and (h)(9). Rule 341(h)(6) states that the appellant's brief "shall contain [a statement of] the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. Feb. 6, 2013). Rule 341(h)(7) states that the appellant's brief "shall contain the contentions of the appellant and the reasons therefore, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Rule 341(h)(9) requires that the appellant's brief contain an appendix which complies with Rule 342. Ill. S. Ct. R. 341(h)(9) (eff. Feb. 6, 2013). Rule 342(a), in turn, requires that the appendix include "a complete table of contents, with page references, of the record on appeal" with a description of the nature of the document, and date of filing, where relevant. Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005).

¶ 19 Generally, petitioner's brief does not clearly set forth her reasons for seeking review of the Board's decisions and the errors which require reversal of that decision. Petitioner has failed to present a concise recitation of the facts, procedural background, or history of the litigation with citation to the record as required by Rule 341(h)(6). There is no argument section of the brief as required by Rule 341(h)(7). This failure results in petitioner's forfeiture of challenges to the Board's decision. Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing."). Finally, petitioner has failed to provide a table of contents of the record on appeal as required by Rule 341(h)(9) and Rule 342. Because of petitioner's failures as to the format of her brief and her failures to cite controlling law, or to the record in her brief, we are unable to fully decipher what, if any, possible arguments or claims of error are being presented or exist.

¶ 20 We understand petitioner has proceeded *pro se* throughout much of this litigation and here on appeal. However, *pro se* litigants must comply with the applicable court rules. See *In re Estate of Pellico*, 394 Ill. App. 3d 1052, 1067 (2009) ("Further, we note that *pro se* litigants are presumed to have full knowledge of applicable court rules and procedures and must comply with the same rules and procedures as would be required of litigants represented by attorneys.").

¶ 21 In this case, petitioner's initial brief was stricken after the Board filed a motion which informed petitioner as to the deficiencies of her brief and what was required of her as the appellant to comply with the applicable rules. Rather than dismiss her appeal at that time, this court struck the brief and instructed petitioner to file a brief which was compliant with the Supreme Court Rules and, in particular, Supreme Court Rule 341. Petitioner, after being granted an extension of time, filed a wholly inadequate brief. Furthermore, she failed to file a reply

brief, nor attempted to correct her noncompliance with the Supreme Court Rules after the Board filed its appellee's brief which, again, sought dismissal of her appeal for her failure to file a proper brief.

¶ 22 Petitioner's failure to comply with Rule 341 results in forfeiture of her arguments on appeal. See *First National Bank of LaGrange v. Lowrey*, 375 Ill. App. 3d 181, 211 (2007). For these reasons, we affirm the decision of the Board.

¶ 23 Affirmed.