

2013 IL App (1st) 121129-U

FOURTH DIVISION
March 14, 2013

No. 1-12-1129

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

LORI HARDY,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 12 M1 106061
)	
THE INGALLS MEMORIAL HOSPITAL and)	
KURT JOHNSON,)	Honorable
)	Leon Wool,
Defendants-Appellees.)	Judge Presiding.

JUSTICE FITZGERALD SMITH delivered the judgment of the court.
Presiding Justice Lavin and Justice Epstein concurred in the judgment.

ORDER

- ¶ 1 *Held:* In the absence of a complete record, where appellant failed to include unspecified evidence which she asserts was submitted to the circuit court or a transcript of the court hearing where her complaint was dismissed with prejudice, circuit order is affirmed.
- ¶ 2 Plaintiff Lori Hardy filed a *pro se* complaint in the circuit court of Cook County, alleging that she had made an overpayment to defendant, the Ingalls Memorial Hospital (Ingalls), but Ingalls would not give her a refund because she had another outstanding bill. Hardy also alleged that Ingalls had ignored her requests for a billing statement setting out what she owed Ingalls.

Hardy now appeals from an order of the circuit court dismissing her complaint with prejudice.

Hardy contends that her complaint supported a fraud claim against Ingalls.

¶ 3 Hardy's complaint was filed on February 10, 2012. On March 30, 2012, Ingalls filed an answer to the complaint, which was combined with an "affirmative defense," and a motion to strike the complaint. In its answer, Ingalls alleged that it was BlueCross BlueShield of Illinois (BlueCross) which had made the overpayment to Ingalls, and it denied that Hardy had made an overpayment to Ingalls. Instead it asserted that Hardy still owed money to Ingalls.¹ For this reason, Ingalls asserted that Hardy's complaint should be dismissed with prejudice. As an affirmative defense, Ingalls alleged that Hardy still owed \$119.83 to Ingalls and therefore Hardy could not support a claim of fraud against Ingalls. In its motion to strike the complaint, Ingalls alleged that because the overpayment was made by BlueCross to Ingalls, Hardy was neither a payee nor a payor and therefore had no standing to bring this action. Ingalls has abandoned this theory on appeal and it asserts that this was not the theory it argued to the circuit court at the hearing on the motion to strike.

¶ 4 In a response to Ingalls' answer, filed on April 9, 2012, Hardy alleged that Ingalls still owed her money and that Ingalls had committed "fraudulent misrepresentation" by billing her before the BlueCross share had been included, resulting in her making an overpayment. She also alleged that Ingalls had not responded to her requests that it send her copies of her bills.

However, the record contains copies of bills from Ingalls, as well as a cover letter dated March 7, 2012. The letter states that although the bills established that Hardy still owed Ingalls \$118.03, Ingalls was waiving that amount and Hardy owed nothing.

¹ In its brief on appeal, Ingalls states that it inadvertently stated that BlueCross made the overpayment and that it should have stated that Hardy made an overpayment of \$263.63 to Ingalls. According to Ingalls, it advised the circuit court of this mistake at the hearing on its motion to strike.

¶ 5 A hearing was held on Ingalls' motion to strike the complaint on April 11, 2012. The record does not contain a transcript of this hearing or a bystander's report. That same day, the circuit court entered an order stating that it had been "fully advised" and dismissed the complaint with prejudice. The order also stated that Hardy owed no money to Ingalls. This appeal ensued.

¶ 6 On appeal, Hardy appears to contend that Ingalls committed fraud by billing her before it factored in the payment made by Blue Cross and by using any overpayments toward other amounts which she owed Ingalls. Hardy states that at the hearing she submitted evidence to the circuit court in support of her claim. She also states that the circuit court returned this evidence to her at the hearing, but she did not know how to include it in the record on appeal. Hardy does not describe this evidence, except to say that it included a letter from BlueCross concerning her overpayment. Finally, Hardy contends that the circuit court erred when it found she lacked standing to sue because she was not a contributing payor and therefore did not have an interest in the outcome of the suit. Ingalls responds that this was not the basis for the circuit court's dismissal of the complaint with prejudice. Instead, according to Ingalls, the circuit court agreed with the argument Ingalls made at the hearing that because Hardy owed nothing, she had not sustained any injury and therefore lacked standing. Ingalls asserts that a copy of its March 7, 2010, letter to Hardy, waiving the remaining fees owed by Hardy, was submitted to the court at the hearing, and that this letter was the basis of the circuit court's ruling.

¶ 7 The order entered by the circuit court stated in pertinent part: "Ms. Hardy owes no money to Ingalls as of 4/11/12. Case dismissed with prejudice." This order in itself does not appear to fully establish the basis of the circuit court's dismissal of the case with prejudice. Hardy asserts that the circuit court erroneously found that she lacked standing because she was not a contributing payor to Ingalls. Although this was the argument made by Ingalls in its motion to strike the complaint, it asserts that it made a different lack-of-standing argument in the hearing of

April 11. Ingalls asserts that it argued that Hardy lacked standing to bring the claim because Hardy did not owe anything to Ingalls and therefore had not sustained any injury from Ingalls' actions. Ingalls also asserts that Hardy stated at the hearing that she owed no money to Ingalls.

¶ 8 As we have noted, there is no transcript or bystander's report of the hearing on Ingalls' motion to strike Hardy's complaint. An appellant has the burden of presenting this court with a record which is sufficient to support his claims of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984); accord *People v. Hunt*, 234 Ill. 2d 49, 58 (2009). Any doubts or deficiencies arising from an incomplete record will be construed against the appellant. *Foutch*, 99 Ill. 2d at 391; accord *Hunt*, 234 Ill. 2d at 58. Stated otherwise, when presented with an insufficient record, we will indulge every reasonable presumption in favor of the judgment appealed from. *Smolinski v. Vojta*, 363 Ill. App. 3d 752, 757-58 (2006). This is particularly true when the order at issue recites that the trial court was "fully advised in the premises." *Smolinski*, 363 Ill. App. 3d at 758.

¶ 9 Here, the order recites, albeit in a printed form, that the court was "fully advised." Without a transcript or bystander's report we are unable to determine the basis of the court's order dismissing Hardy's complaint with prejudice. Ingalls alleges that the court's finding that Hardy did not owe any money to Ingalls was the basis of a finding, apparently made at the hearing, that Hardy lacked standing because she had not been injured. Hardy asserts that the court's order was based on the court's conclusion that because Hardy did not owe anything to Ingalls, she was not a contributor or payor and thus had no real interest in the outcome of the dispute. We cannot determine what was contained in the letter from BlueCross to Ingalls in which, Hardy claims, BlueCross instructed Ingalls to refund an overpayment to Hardy. The letter is not contained in the record, although Hardy contends that she did submit it to the circuit court at the hearing. We also do not know the nature of the other evidence which Hardy claims to have provided to the circuit court at the hearing. Finally, we cannot verify Ingalls' claim that during the hearing Hardy

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admitted that she did not owe any money to Ingalls. In her brief on appeal, Hardy asserts that Ingalls still owed her money from an overpayment which she made. Hardy's failure to include in the record a transcript or bystander's report of the hearing prevents us from properly evaluating Hardy's claims or the order from which Hardy appeals. In the absence of a proper record, we will presume that the court's order conformed to the law and had a sufficient factual basis to support it. *In re Marriage of Gulla and Kanaval*, 234 Ill. 2d 414, 422 (2009) Accordingly, we affirm the judgment of the circuit court.

¶ 10 Affirmed.