2019 IL App (1st) 182208-U

No. 1-18-2208

Order filed September 30, 2019

Third Division

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

MERCY HOUSING,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 17 M1 718876
	)	
ANGELA TUCKER,	)	Honorable
	)	Eve M. Reilly,
Defendant-Appellant.	)	Judge, presiding.

JUSTICE MCBRIDE delivered the judgment of the court.
Presiding Justice Ellis and Justice Howse concurred in the judgment.

ORDER

¶ 1 *Held*: We affirm the trial court's judgment where defendant's brief is insufficient to ascertain her claims and she has failed to furnish a sufficient record such that error can be determined.

¶ 2 Defendant Angela Tucker appeals *pro se* from the trial court's order granting possession of a certain apartment and awarding $6371.97 in unpaid rent and costs to plaintiff Mercy Housing. On appeal, defendant contends that the trial court's order was wrong because her bankruptcy case was "closed and discharged," which meant that plaintiff had "no right" to ask

defendant for money. Defendant also contends that plaintiff did not present the court with the "correct amount" due. We affirm.

¶ 3 There is no report of the trial court proceedings in the record on appeal. However, the following facts can be gleaned from the limited record on appeal, which includes plaintiff's complaint for forcible detainer, an agreed order, and the trial court's eviction order.

¶ 4 In November 2017, plaintiff filed a complaint for forcible detainer and rent or damages against defendant, alleging that plaintiff was entitled to possession of a certain apartment on West Arthington Street in Chicago as well as unpaid rent totaling $1570, plus costs.

¶ 5 Defendant filed a counterclaim and affirmative defenses, alleging a breach of the implied warranty of habitability due to a bed bug infestation, a failure to maintain the apartment, and retaliatory conduct.

¶ 6 In February 2018, the parties entered into an agreed order providing, in pertinent part, that (1) defendant would pay the $4120 rent due and owing through February 2018; (2) defendant would resume paying rent by the fifth of the month starting on April 4, 2018; and (3) if defendant failed to pay as agreed or otherwise materially breached the lease, upon notice of motion to defendant's counsel, plaintiff would be entitled to an order of possession plus a money judgment. The case was dismissed pursuant to the terms of the agreed order, and the trial court retained jurisdiction.

¶ 7 On August 24, 2018, plaintiff filed a motion to vacate the dismissal, reinstate the case, and obtain an eviction order and money judgment. The motion alleged that defendant had breached the agreed order when, although she tendered two checks totaling $3140, both checks

were returned for insufficient funds. The motion further alleged that $4135 in rent was due and owing through August 2018.

¶ 8 On October 11, 2018, the trial court entered an order of eviction against defendant. The order found that plaintiff was owed $6025 in rent and $346.97 in court costs, and that plaintiff was entitled to possession of the apartment. Defendant was to move out of the apartment on, or before, October 31, 2018. Defendant filed a timely *pro se* notice of appeal.

¶ 9 On August 7, 2019, this court entered an order taking the case on defendant's brief only. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 10 On appeal, defendant contends that because her bankruptcy case was closed, plaintiff should not have asked her for money. She also contends that the amount claimed by plaintiff as unpaid rent in the trial court was incorrect because it did not reflect certain payments and donations. Attached to defendant's *pro se* brief in support are, *inter alia*, an order of discharge in bankruptcy case number 17-24639 dated November 14, 2017 and documents from that case; copies of cancelled checks and bank statements; a "Required Statement to Accompany Motions for Relief from Stay;" a "Landlord's Fifteen Day's Notice" and affidavit of service; portions of defendant's lease; a "Work Order Request;" and copies of photographs. None of these documents are included in the record on appeal.

¶ 11 As a preliminary matter, we note that our review of defendant's appeal is hindered by her failure to fully comply with Supreme Court Rule 341 (eff. May 28, 2018), which "governs the form and content of appellate briefs." *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12. Although defendant is a *pro se* litigant, this status does not lessen her burden on appeal. "In Illinois, parties choosing to represent themselves without a lawyer must comply with the same

rules and are held to the same standards as licensed attorneys." *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 78. Supreme Court Rule 341(h) provides that an appellant's brief should contain a statement of "the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment" and an argument "which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(6), (7) (eff. May 28, 2018). Pursuant to the rule, a reviewing court is entitled to have issues clearly defined with "cohesive arguments" presented and pertinent authority cited. *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993).

¶ 12 Here, although defendant used a form approved by the Illinois Supreme Court when filing her brief, she has failed to articulate a legal argument which would allow a meaningful review of her claims, and provides no citations to the record. An appellant is required to cite to the pages and volumes of the record on appeal upon which she relies "so that we are able to assess whether the facts which [the appellant] presents are accurate and a fair portrayal of the events in this case." *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 58; see also Ill. S. Ct. R. 341(h)(7) (eff. May 25, 2018). Moreover, defendant cites no pertinent legal authority to support her arguments on appeal. See *People v. Hood*, 210 Ill. App. 3d 743, 746 (1991) ("A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository into which the appealing party may dump the burden of argument and research."). "Arguments that do not comply with Rule 341(h)(7) do not merit consideration on appeal and may be rejected by this court for that reason alone." *Wells Fargo Bank, N.A. v. Sanders*, 2015 IL App (1st) 141272, ¶ 43.

¶ 13 Although defendant has attached certain documents to her brief in support of her arguments on appeal, those documents are not contained in the record on appeal. It is well settled that the record on appeal cannot be supplemented by simply attaching documents to the appendix of a brief. *In re Parentage of Melton*, 321 Ill. App. 3d 823, 826 (2001). We cannot consider improperly appended documents not included in the record on appeal. *Id.* To the extent that plaintiff's brief fails to comply with Supreme Court Rule 341(h)(7), her arguments are forfeited.

¶ 14 Considering the content of defendant's brief, it would be within our discretion to dismiss the instant appeal. See *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005) ("Where an appellant's brief fails to comply with supreme court rules, this court has the inherent authority to dismiss the appeal."). However, because the issues in this case are simple and defendant made an effort to present her appeal by use of the approved form brief, we choose not to dismiss the appeal on that ground. See *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 451 (1983).

¶ 15 That said, the deficiencies in the record still prevent us from reaching this appeal on the merits. On appeal, the appellant, in this case defendant, has the burden to provide a complete record for review in the appellate court to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). If no such record is provided, "it will be presumed that the order entered by the trial court was in conformity with law and had a sufficient factual basis." *Id.* at 392. This is because, in order to determine whether there was actually an error, a reviewing court must have a record before it to review. *Id.*

¶ 16 Here, the record on appeal does not contain a report of proceedings from the October 11, 2018 court date or an acceptable substitute such as a bystander's report or agreed statement of facts pursuant to Supreme Court Rule 323. See Ill. S. Ct. R. 323(a), (c), (d) (eff. July 1, 2017).

Without a report of proceedings or an acceptable substitute, we are unable to review the interaction between defendant and the trial court or determine what evidence was admitted or excluded at the hearing. Moreover, we have no knowledge of what arguments or evidence were presented to the trial court, and no record of the manner in which the trial court calculated the judgment. Under these circumstances, we must presume that the court acted in conformity with the law and ruled properly after considering the evidence before it. *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156-57 (2005). In the absence of a report of proceedings or other record of the hearing, we have no basis for disturbing the trial court's judgment. *Foutch*, 99 Ill. 2d at 391-92.

¶ 17 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 18 Affirmed.