

No. 1-12-0673

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

MARTIN WEATHERS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 11 M 62328
)	
TOMMIE DELK and SHERRY BURGESS,)	Honorable
)	Loretta Eadie-Daniels,
Defendants-Appellees.)	Judge Presiding.

JUSTICE EPSTEIN delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held:* Where appellant failed to appeal judgment within 30 days of its entry, this court lacked jurisdiction to consider his present arguments; the appeal is dismissed.

¶ 2 Plaintiff Martin Weathers appeals *pro se* from the trial court's judgment in his favor requiring defendants Tommie Delk and Sherry Burgess to surrender various items of personal property from a residence that the parties formerly shared. Defendants have not filed a brief in response. We dismiss this appeal for lack of jurisdiction.

¶ 3 On July 11, 2011, Weathers filed a complaint asserting that from October 2008 to November 2010, he lived with defendants at an address in Matteson. Weathers asserted that

defendants refused to allow him to remove personal property from the residence after he moved, including a refrigerator, stove, microhood, washer and dryer, televisions, DVD player, dinnerware set, Pyrex set, Tupperware set, grill, and a tray table set. Weathers sought a judgment in the amount of \$5,892.69, or the return of that property, plus costs.

¶ 4 On November 29, 2011, the trial court entered an order which states as follows:

"Finding in favor of plaintiff. Plaintiff gets (1) refrigerator (2) washer 2 televisions plus other unchallenge [*sic*] items plus cost of \$307 [] within 30 days. (December 30, 2011)"

¶ 5 On January 9, 2012, Weathers filed a motion stating that defendants had failed to abide by the portion of the order requiring payment before December 30. On February 6, 2012, the court entered an order awarding an *ex parte* judgment of \$2,600 to Weathers "based on failure of defendants to appeal and also defendants' failure to turn over property." On February 27, 2012, Weathers filed a notice of appeal from the November 29, 2011, judgment, stating that defendants had been awarded the stove, microhood and dryer as compensation and also "were compensated prior with \$5,000.00 in home improvements and labor."

¶ 6 We first address this court's jurisdiction to consider Weathers' appeal. See *In re Marriage of Ehgartner-Shachter and Shachter*, 366 Ill. App. 3d 278, 283 (2006) (appellate court "has a *sua sponte* duty to ensure that it has jurisdiction with respect to each of the circuit court's orders being appealed"). The November 29, 2011, order was final and appealable because it terminated the litigation on the merits. "A final judgment is a determination by the court on the issues presented by the pleadings which ascertains and fixes absolutely and finally the rights of the parties in the lawsuit," and a judgment is final if it determines the litigation on the merits so that, if affirmed, the only thing remaining is to proceed with execution of the judgment. *Lamar*

Whiteco Outdoor Corp. v. City of West Chicago, 395 Ill. App. 3d 501, 504-05 (2009); see also *In re Detention of Hardin*, 238 Ill. 2d 33, 42-43 (2010).

¶ 7 Our review is limited to appeals from final judgments, and Illinois Supreme Court Rule 303(a)(1) (eff. June 4, 2008) provides that a notice of appeal must be taken within 30 days after the entry of the final judgment from which the appeal is taken. Here, Weathers filed his notice of appeal from the November 29, 2011, order on February 27, 2012.

¶ 8 Weathers appealed to this court only after defendants failed to meet their obligations under the judgment. Although a trial court retains limited jurisdiction over a judgment after 30 days have passed, that period only permits enforcement of the judgment, as opposed to a re-opening of the judgment. See *Blazyk v. Daman Express, Inc.*, 406 Ill. App. 3d 203, 206 (2010). Although Weathers filed a notice of appeal within 30 days of the February 27 ruling, he stated in that notice of appeal that defendants had not followed the court's original ruling and contended he should have been awarded all of the items listed in his complaint and that defendants had not paid him or released any of the property to him. Thus, Weathers challenged the November 2011 order.

¶ 9 Moreover, the substance of Weathers' argument on appeal is that when the court entered the November 2011 judgment, the court was unaware that defendants had received \$5,000 worth of labor and improvements per an "oral contract" between the parties. This court cannot review Weathers' arguments on that point because the evidence on which he relies is outside of the record on appeal.

¶ 10 In summary, Weathers failed to appeal the November 2011 judgment within 30 days of its filing. Accordingly, this appeal is dismissed for lack of jurisdiction.

¶ 11 Appeal dismissed.