

2018 IL App (1st) 163204-U

No. 1-16-3204

Order filed April 10, 2018

Second Division

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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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KASS MANAGEMENT SERVICES, INC.,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 16 M1 713248
	)	
GREGG MOORE, HENRIETTA MOORE and ALL	)	
UNKNOWN OCCUPANTS,	)	Honorable
	)	John J. Curry,
Defendants	)	Judge, presiding.
	)	
(Gregg Moore, Defendant-Appellant).	)	

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

**ORDER**

- ¶ 1 *Held:* Circuit court's order denying defendant's motion to stay eviction affirmed where defendant's brief was insufficient to ascertain claims and failed to make cogent arguments, and the record is insufficient for our review of the issue raised.
- ¶ 2 *Pro se* defendant Gregg Moore appeals from the circuit court's order denying his motion to stay eviction after the court awarded possession of his apartment on West Argyle Street, in

Chicago, Illinois, to plaintiff Kass Management Services, Inc.<sup>1</sup> For the following reasons, we affirm.

¶ 3 The record on appeal consists only of the common law record. There is no report of proceedings included. All of defendant's filings in the trial court were *pro se*, as is his brief on appeal.

¶ 4 The record shows that, on July 26, 2016, plaintiff filed a complaint seeking possession of the apartment, claiming that defendant, Henrietta Moore, and "all unknown occupants" (collectively "defendants") failed to pay rent from January 2016 through July 2016 and were unlawfully withholding possession of the property. Plaintiff also sought \$1,380 plus costs and rent through the trial date.

¶ 5 The record shows plaintiff attempted to serve defendants at the apartment on multiple occasions by various means throughout August 2016. On August 25, 2016, the court granted plaintiff leave to perform service by posting. Plaintiff posted notice of the pending action the following day, giving defendants notice that plaintiff's action for the recovery of the apartment was pending and service to defendants could not be obtained, and requiring defendants to appear on September 8, 2016.

¶ 6 The circuit court entered an "ex parte" order awarding plaintiff possession of the apartment on September 8, 2016. The order does not reflect whether defendants were present in court.

¶ 7 On October 3, 2016, defendant filed a motion for "an emergency call" requesting to "see the Honorable Judge" "for a mailing received this weekend." The motion stated that, "since July

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<sup>1</sup> Defendant appears to be the only appellant in the instant appeal. However, before the trial court, Henrietta Moore was also a named defendant and signed various defense motions.

12, 2016 [defendant] [has] been in a differen[t] courtroom 1308 where defendant Kass here plaintiff never showed up despite series of services.”<sup>2</sup>

¶ 8 Defendant filed another motion for “yet another emergency” on October 5, 2015. The motion stated that it was “in response to a notice of eviction from Sheriff Dart only seen for the first time on Saturday 10/2/2016 without any notice of this matter received by the Moores suing them as defendant whereas a case has been filed in this court since July 12, 2016 for time to move out of property.” On that same day, the circuit court entered an order denying defendant’s motion to stay eviction “due to improper notice of motion.” It is unclear to which motion the court’s order is directed.

¶ 9 On October 14, 2016, defendant filed a motion to withdraw, stating he could not be heard in court “and to comply with landlord’s requirement; and very sorry being a Christian and a minister for not adhering to Christ’s injunction to turn the other cheek. [Defendant] [has] not complied with [plaintiff’s] command.”

¶ 10 On October 26, 2016, defendants filed a document labeled “argument in open court” requesting that the court “retract and or redact that order of eviction,” and claiming that they paid plaintiff \$1,700 via cashier’s check. A copy of the cashier’s check is included in the record but is not date stamped by the court. On the same date, the court entered an order vacating its September 8, 2016, order, noting defendant was present in court and submitted to the court’s jurisdiction, and setting a trial date.

¶ 11 On November 17, 2016, the court entered an order for possession of the apartment to plaintiff. The court also awarded plaintiff \$5,760 in costs. Defendant filed a motion for rehearing

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<sup>2</sup> It appears from the record that defendant filed a separate suit against plaintiff, which he later dismissed.

on that date, arguing that he had previously denied the allegations in the complaint but could not provide proof. Defendant claimed that he later provided proof of payment and the case should have been dismissed. The record contains copies of a check dated July 2, 2016, made out to plaintiff, and of an envelope with a “return to sender” stamp. The copies are not date stamped by the court and we cannot determine whether they were attached to the motion.

¶ 12 On November 30, 2016, defendants filed a “motion to reconsider, vacate possession order, and dismiss [suit] with prejudice.” The motion argued that defendants were not behind on payments to plaintiff, did not initially receive notice of the suit, and plaintiff’s attorney misled the court. Defendants asked the court to “revoke” the “unlawful and illegal reinstated order” and dismiss the suit with prejudice.

¶ 13 On December 1, 2016, the court entered an order denying defendants’ “motion to stay eviction.” Defendant filed a timely notice of appeal.

¶ 14 Defendant appeals *pro se*. He asks that we reverse the circuit court’s order, but his brief is otherwise incomprehensible. Plaintiff has not filed an answering brief and the court was recently advised that defendant has failed to serve plaintiff with his notice of appeal or his brief.

¶ 15 “A reviewing court is entitled to the benefit of clearly defined issues with pertinent authority cited and a cohesive legal argument.” *Wing v. Chicago Transit Authority*, 2016 IL App (1st) 153517, ¶ 11. Compliance with the Illinois Supreme Court Rules is mandatory, not merely suggestive. See *Fryzel v. Miller*, 2014 IL App (1st) 120597, ¶ 25. *Pro se* litigants are not excused from complying with the rules governing appellate practice. *Id.* at ¶ 26.

¶ 16 Illinois Supreme Court Rule 341(h) (eff. Jan. 1, 2016) sets out the required contents of an appellant’s brief, including a statement of facts “contain[ing] the facts necessary to an

understanding of the case \*\*\* with appropriate reference to the pages of the record on appeal” (Ill. S.Ct. R. 341(h)(6) (eff. Jan. 1, 2016)), and an argument that must “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)(7) (eff. Jan. 1, 2016)).

¶ 17 In this case, in violation of Rule 341, defendant’s brief provides no cogent legal argument and no citations to the record. The gist of his brief appears to be that he is current on payments to plaintiff. However, even with the most liberal reading of defendant’s brief, he provides no discernible legal claims or supporting legal authority, and, therefore, we may decline to address his arguments. See *Enadeghe v. Dahms*, 2017 IL App (1st) 162170, ¶ 23 (the appellate court may decline to address arguments absent appropriate citation); see also *Cimino v. Sublette*, 2015 IL App (1st) 133373, ¶ 3 (noting it is well established that this court is “ ‘not a repository into which an appellant may foist the burden of argument and research’ ” (quoting *Velocity Investments, LLC v. Alston*, 397 Ill. App. 3d 296, 297 (2010))).

¶ 18 However, even if we were to consider the merits of defendant’s appeal, deficiencies in the record prevent us from granting the requested relief. The appellant bears the burden of presenting a sufficiently complete record on appeal. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001). Where the record is insufficient to resolve the appellant’s claims, we presume that “the order entered by the trial court was in conformity with law and had a sufficient factual basis.” *Foutch v. O’Bryant*, 99 Ill. 2d 389, 391-92 (1984). “Any doubts which may arise from the incompleteness of the record will be resolved against the appellant.” *Id.* at 392. We do not have the benefit of transcripts, bystander’s reports, or an agreed statement of facts, and the trial court’s order does not provide us with the reasons for awarding plaintiff possession or for denying

No. 1-16-3204

defendant's motion to stay eviction. The orders reflect only the court's judgment. Thus, without more, we presume the circuit court's order "was in conformity with the law and had a sufficient factual basis." *Id.*

¶ 19 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County.

¶ 20 Affirmed.