

2018 IL App (1st) 172368-U  
No. 1-17-2368  
Order filed September 28, 2018

Fifth 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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JOYCE T. WELLS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 17 M1 713663
	)	
WANDA TORRENCE,	)	The Honorable
	)	Elizabeth Karkula,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE HALL delivered the judgment of the court.  
Presiding Justice Rochford and Justice Lampkin concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* *Pro se* defendant's brief failed to fully comply with Illinois Supreme Court Rule 341; circuit court's orders entered after hearings presumed to be in conformity with the law and have a sufficient factual basis where defendant failed to file a report of proceedings or bystander's report.
- ¶ 2 Defendant Wanda Torrence appeals from an order of the circuit court of Cook County which granted an order of possession to plaintiff Joyce T. Wells of an apartment occupied by defendant. On appeal, defendant contends that: 1) five of the circuit court's orders violated her

rights as a disabled person under the Americans with Disabilities Act (ADA), her due process rights, and her equal protection rights; 2) the September 19, 2017, order was void for lack of proper service; and 3) at the September 26, 2017, hearing, the court never addressed her counterclaims and affirmative defenses and she only signed the order in protest. For the following reasons, we affirm.

¶ 3 Although plaintiff has not filed a brief on appeal, we will consider the appeal pursuant to the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-133 (1976).

¶ 4 BACKGROUND

¶ 5 Plaintiff filed a *pro se* forcible entry and detainer eviction against defendant, a section 8 tenant and Housing Choice Voucher recipient, in the circuit court of Cook County on August 18, 2017. In her complaint, plaintiff sought recovery of \$610 for rent and costs from August 2017 to October 2017, and to regain possession of defendant's apartment. Plaintiff completed an eviction summons that required defendant to appear for trial on September 1, 2017.

¶ 6 The circuit court granted plaintiff's motion for a special process server on September 1, 2017, and set trial for September 19, 2017. On September 19, 2017, the circuit court continued the matter to September 26, 2017, to allow defendant time to obtain an attorney.

¶ 7 Defendant filed a *pro se* appearance and on September 25, 2017, filed an "Answer, Affirmative Defenses and Counterclaims Answer" and a "Verified Affidavit of Wanda Torrence," in which she asserted that she has significant hearing loss and that plaintiff fraudulently misrepresented to the court that service was made when it was not. Defendant contended that plaintiff handed her a letter on June 6, 2017, which stated that plaintiff was

releasing defendant from her monthly rental arrangement and cancelling the rental contract. Defendant asserted that the complaint falsely stated that she owed \$610, but she paid rent every month through July 2017, and attached receipts showing those payments. Defendant further contended that the eviction complaint falsely stated that she owed \$610 to plaintiff, a two-month delinquency, but after plaintiff's June 6 letter, defendant had only possibly missed paying in August 2017.

¶ 8 In addition to her answer, defendant also presented affirmative defenses and several counterclaims. As affirmative defenses, defendant maintained that there was no lease because plaintiff cancelled and released her from her rent obligation in the letter she wrote on June 6, 2017. Defendant alleged that as a "proximate cause" of plaintiff's eviction action, she "suffered substantial harm," including distress, and the potential loss of her section 8 voucher.

¶ 9 In defendant's counterclaims, she contended that plaintiff's eviction action had malicious intent, defamed her character, and was harassment. Defendant requested various amounts in damages, a court order sealing the eviction from her record, and a stay so that she could remain in the apartment until she found a new place to live.

¶ 10 On September 26, 2017, the circuit court entered an "Agreed Settlement Order," signed by both parties, in which defendant was required to: 1) move out of the apartment by October 31, 2017, and 2) pay a total of \$915 plus court costs in two installments (\$610 on or by October 3, 2017, and \$305 on or by October 31, 2017). Next to defendant's signature in parenthesis were the words "in protest." The matter was continued to November 2, 2017, for dismissal based on compliance with the order or stating that defendant would agree to enter into an order of possession.

¶ 11 Also on September 26, 2017, defendant filed a notice of appeal from the circuit court settlement order. In her notice of appeal, defendant contended that: 1) she signed the order in protest; 2) plaintiff never served her; 3) plaintiff cancelled the lease's rent obligation through her letter on June 6, 2017; and 4) she could not hear the proceedings. On September 28, 2017, defendant filed an amended notice of appeal from the September 26, 2017, order, requesting that the order be vacated and the "trial" be deemed invalid because she was "unable to hear proceedings."

¶ 12 On October 3, 2017, defendant filed a motion to stay the September 26 "proceedings and judgment" with the circuit court. As a supplement to the motion to stay, defendant filed a "Verified Testimony and Affidavit" on October 13, 2017. Defendant contended that while the trial court moved closer to her when speaking, it did not help her hear the proceedings better, and it "humiliated" her when the court conducted the courtroom differently because of her disability. Defendant also contended that the court's order of September 26, 2017, was against her rights because it did not consider her affirmative defenses and counterclaims and the court entered the judgment in a situation where she struggled to hear the proceedings without an accommodation for her hearing loss.

¶ 13 On October 13, 2017, the circuit court entered an order granting defendant's motion to stay the eviction until October 31, 2017. Also on October 13, 2017, defendant filed a second amended notice of appeal, combining her previous appeals and requested appellate review of the circuit court's orders of September 19, September 26, and October 13, 2017. Defendant contended that none of her valid issues were addressed by the court, her counterclaims and

affirmative defenses were ignored, her hearing loss was not accommodated, the court allowed illegal recordings and allowed plaintiff to enforce a voided lease.

¶ 14 On November 1, 2017, plaintiff filed a motion for an order of possession and costs. At the previously scheduled court date of November 2, 2017, the circuit court entered and continued plaintiff's possession motion in a written order to November 13, 2017.

¶ 15 At approximately 10:57 a.m. on November 13, 2017, as evidenced by file stamp, defendant filed a motion for continuance. Defendant contended that despite her efforts to make the court aware of her hearing loss, it had not provided her with an auxiliary aid and it would be unfair to have a hearing on that date when: 1) she would not be able to participate without an accommodation and 2) as she previously filed a notice of appeal challenging all the orders, it would be a waste of resources for the hearing to continue when the appellate court would review all pending matters.

¶ 16 On the same date, defendant also filed a motion to stay enforcement of the court's previous orders with a supplemental affidavit. In support of her motion, defendant contended that because of her appeal, the circuit court no longer had jurisdiction to preside over the eviction proceeding. She averred that she was looking for a new apartment and needed to remain at the old one until a new apartment was approved. Defendant offered to pay use and occupancy for the apartment during the pendency of the appeal.

¶ 17 Defendant filed her third amended notice of appeal on November 13, 2017, combining the previous appeals and additionally requesting appellate review of the circuit court's orders from November 2 and November 13, 2017. Defendant requested that the appellate court strike plaintiff's motion from November 1, 2017, and dismiss the November 13, 2017, date for hearing

on that motion. Defendant further requested that she be awarded a stay pending the appellate court's ruling on compliance, possession, moving prior to appeal and her counterclaim.

¶ 18 The record contains a docket entry of an order on November 13, 2017,<sup>1</sup> which: 1) allowed costs to be assessed on plaintiff's motion from November 1, 2017; 2) granted an ex-parte judgment for \$1200 against defendant; 3) granted an order of possession to plaintiff; and 4) allowed a stay of enforcement of the order of possession until November 20, 2017.

¶ 19

#### ANALYSIS

¶ 20 On appeal, defendant contends that the circuit court's orders from September 19, September 26, October 13, November 2, and November 13, 2017, violated her rights under the ADA as well as her due process and equal protection rights. Defendant contends that the September 19 hearing was in violation of her rights because service was improper. Defendant maintains that although she filed her answer, counterclaims and affirmative defenses on September 25, 2017, the court did not address them, and she signed an order she did not agree to "in protest." Defendant further asserts that the circuit court violated her rights on November 13, 2017, by entering an order of possession against her when she was not yet in possession of a hearing device and unable to effectively participate in the proceedings.

¶ 21 As a preliminary matter, we note that defendant's brief fails to fully comply with Illinois Supreme Court Rule 341(h)(7). Ill. S. Ct. R. 341(h)(7) (eff. July 1, 2017). Rule 341(h)(7) requires that the argument section 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.

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<sup>1</sup> The record contains copies of the court's orders of September 19, September 26, October 13, and November 2, but no written order for November 13. However the docket sheet contained in the record references an order entered on November 13, 2017.

341(h)(7) (eff. July 1, 2017). Here, defendant made numerous arguments for alleged violations of various rights, but she failed to support them with authority, and she did not cite to the pages of the record relied on. "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. To the extent that defendant's brief fails to comply with Rule 341(h)(7), her arguments are forfeited.

¶ 22 Moreover, defendant has not provided this court with a transcript of proceedings or acceptable substitute pursuant to Illinois Supreme Court Rule 323. Ill. S. Ct. R. 323(a), (c) (eff. July 1, 2017). The appellant has the burden to provide a complete record for review to the appellate court to support a claim of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391–92 (1984). Without a full record, this court must presume that the order entered by the trial court was in conformity with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 391–92. All doubts and deficiencies arising from an insufficient record will be construed against the appellant. *In re Marriage of Abu-Hashim*, 2014 IL App (1st) 122997, ¶ 15.

¶ 23 Although defendant is a *pro se* litigant, her status as a self-represented litigant 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, ¶ 7.

¶ 24 Here, as defendant did not provide a transcript of proceedings or a bystander's report from any of the proceedings in the circuit court, we must presume that the circuit court's orders were entered in conformity with the law and had a sufficient factual basis.

¶ 25

#### CONCLUSION

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

¶ 27 Affirmed.