

2019 IL App (1st) 181752-U

No. 1-18-1752

Order filed October 8, 2019

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).

---

IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

---

TLC MANAGEMENT COMPANY AS AGENT FOR	)	Appeal from the
SHOREWIND TOWERS LLC, d/b/a SHOREWIND	)	Circuit Court of
TOWERS APARTMENTS,	)	Cook County.
	)	
Plaintiff-Appellee,	)	
	)	No. 15 M1 125048
v.	)	
	)	
NICOLE SMITH,	)	Honorable
	)	Martin Paul Moltz,
Defendant-Appellant.	)	Judge, presiding.

---

PRESIDING JUSTICE SMITH delivered the judgment of the court.  
Justices Lavin and Coghlan concurred in the judgment.

**ORDER**

¶ 1 *Held:* We affirm the circuit’s decision finding for plaintiff because, in the absence of a record of proceedings, we assume the finding was in conformity to the law and had a sufficient factual basis.

¶ 2 Defendant Nicole Smith appeals, *pro se*, from a July 12, 2018, circuit court order, entered after a hearing, denying her motion to vacate judgment in favor of plaintiff TLC Management Company as agent for Shorewind Towers LLC, d/b/a Shorewind Towers Apartments in this

breach of contract action. Plaintiff has not filed a responsive brief. We affirm the trial court's judgment where defendant has failed to provide a sufficiently complete record on appeal to support her claims of error.

¶ 3 We initially note that the record on appeal does not contain a transcript of the proceedings from the trial court, a bystanders report, or an agreed statement of facts. Ill. S. Ct. R. 321 (eff. Feb. 1, 1994); R. 323 (eff. Dec. 13, 2005). In this case, defendant as the appellant has the responsibility to present a record complete enough to support her claims of error, and if she fails, any doubts arising from the incompleteness of the record will be resolved against her. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984).

¶ 4 That said, to the extent that we can discern, the record on appeal shows that on October 15, 2015, plaintiff filed a breach of contract complaint against defendant for \$1718.83 in damages owed pursuant to a lease for unpaid rent and repairs. Plaintiff attached to the complaint a copy of the lease, an affidavit from an agent for plaintiff, a resident's account ledger for defendant, and an invoice for installation of a new apartment door. On October 25, 2017, defendant filed a motion to dismiss the action under section 2-619 of the Code of Civil Procedure (Code). 735 ILCS 5/2-619 (West 2016). On April 30, 2018, defendant filed another section 2-619 motion to dismiss. On May 10, 2018, the trial court denied defendant's motion to dismiss and entered judgment for the plaintiff in the amount of \$1030. The order reflects that the judgment for plaintiff was entered after trial. On June 7, 2018, defendant filed a motion to vacate judgment pursuant to section 2-1203(a) of the Code. 735 ILCS 5/2-1203(a) (West 2016). In the motion, defendant argued that she was not timely served and that the trial court did not allow

pretrial discovery. On July 12, 2018, after a hearing, the trial court denied defendant's motion to vacate judgment. Defendant appeals.

¶ 5 In her *pro se* brief, defendant asks this court to overturn the decision of the trial court because the court did not answer or rule on her motion to dismiss, and did not allow for pretrial discovery or pretrial hearing. On August 8, 2019, we entered an order to take the case for consideration on the record and defendant's brief only since plaintiff did not file a brief. See *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-33 (1976) (explaining the resolution of appeals in cases where the appellee has not filed a brief).

¶ 6 As a threshold matter, we observe that defendant's *pro se* brief does not comply with the requirements of Illinois Supreme Court Rule 341 (eff. Nov. 1, 2017). This rule dictates the form and subject matter of briefs. *McCann v. Dart*, 2015 IL App (1st) 141291, ¶ 12. Although defendant has utilized the approved form for briefs, she has failed to comply with subsections (h)(6) and (h)(7) of Rule 341.

¶ 7 Subsection (h)(6) of Rule 341 requires that the brief contain a statement of facts to provide the reviewing court with an understanding of the case. In the statement of facts, defendant is to provide citations to the record, including page numbers, so that this court can analyze whether the facts presented by defendant "are accurate and a fair portrayal of the events in this case." *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 58; Ill. S. Ct. R. 341 (h)(6) (eff. Nov. 1, 2017). A brief which does not include references to page numbers in the record waives the facts that are unsupported. See *Engle v. Foley and Lardner, LLP*, 393 Ill. App. 3d 838, 854 (1st Dist. 2009). Defendant's *pro se* status does not relieve her of the responsibility to

comply with the appellate procedures established by our supreme court. *Wing v. Chicago Transit Authority*, 2016 IL App (1st) 153517, ¶ 7.

¶ 8 In her brief, defendant also fails to cite any pertinent legal authority to support her arguments on appeal. “[T]his court is not a depository in which an appellant may dump its arguments without factual foundation in hopes that we will sift through the entire record to find support for a determination favorable to appellant’s position.” *Coffey v. Hancock*, 122 Ill. App. 3d 442, 444 (3d Dist. 1984); accord *Mikrut v. First Bank of Oak Park*, 359 Ill. App. 3d 37, 51 (1st Dist. 2005). Defendant’s arguments will be procedurally defaulted if they are not supported by citations to pertinent legal authority. *Id.* A deficient brief does not impact this court’s jurisdiction to consider an appeal but “we may exercise our discretion and strike a brief for failure to comply with the rules.” *Id.*

¶ 9 In addition to the deficiencies of defendant’s brief, the record on appeal does not include a transcript of the proceeding, a bystanders report, or an agreed statement of facts. Ill. S. Ct. R. 321 (eff. Feb. 1, 1994); R. 323 (eff. Dec. 13, 2005). “The purpose of appellate review is to evaluate the record presented in the trial court and review must be confined to what appears in the record.” *People v. Canulli*, 341 Ill. App. 3d 361, 367–68 (4th 2003); accord *People v. Morgan*, 2015 IL App (1st) 131938, ¶ 97. As mentioned, defendant as the appellant has the responsibility to present a record complete enough to support her claim of error, and if she fails, any doubts arising from the incompleteness of the record will be resolved against her. *Foutch*, 99 Ill. 2d at 391-92. “[M]atters not properly in the record will not be considered on review.” *Jenkins v. Wu*, 102 Ill. 2d 468, 483 (1984). When there is not a complete record, the reviewing court will

presume that the trial court's order conformed with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 392. We will not speculate as to what errors may have occurred below.

¶ 10 Here, defendant alleges that the trial court erred by “not answering or ruling on [her] motion to dismiss” and “not allowing [her] a pre-trial discovery or pre-trial hearing.” Contrary to defendant's argument the record shows that on May 10, 2018, the trial court denied her motion to dismiss and entered judgment in favor of plaintiff. That order also reflects that judgment was entered after trial. However, the record on appeal does not include a transcript of the trial proceedings, bystander's reports, or agreed statement of facts. *Foutch*, 99 Ill. 2d at 391-92 (any doubts arising from the incompleteness of the record will be resolved against defendant). Moreover, on July 12, 2018, when the court denied defendant's motion to vacate the judgment entered on May 10, 2018, it noted that the order was entered after a hearing and that defendant's previous motions to dismiss were abandoned when the trial commenced. The record on appeal does not include a transcript of the proceedings from the hearing on defendant's motion. Defendant also claims that the case was transferred to another judge but does not provide any authority or evidence from the record for why this was inappropriate. Without a complete record, we will not guess as to what happened in the trial court. *Foutch*, 99 Ill. 2d at 391-92. Instead, we must presume the trial court's orders were in conformity to the law. *In re Marriage of Sanchez and Sanchez-Ortega*, 2018 IL App (1st) 171075, ¶ 37. Consequently, we affirm the judgment of the trial court.

¶ 11 Affirmed.