

ARGUMENT

It has been held repeatedly that the judgment of the trial Judge sitting as the trier of facts, who observed witnesses, heard testimony, reviewed exhibits and made careful and complete findings of fact, will be affirmed on appeal if there is any evidence in the record to support the judgment, Brown v. Zimmerman, 118 Ill.2d 94, 102 (1957) Hendricks v. Riverway Harbor Service, 314 Ill.App.3d 800 (5th Dist. 2000), and in a nonjury trial where there is conflicting testimony, the determination of witness credibility is for the trier of fact whose findings of fact will not be disturbed unless they are against the manifest weight of the evidence. Stallings v. Stallings, 75 Ill.App.3d 96 (5th Dist. 1979). A judgment may be found to be against the manifest weight of the evidence only where the opposite conclusion is apparent, or where the findings appear to be unreasonable, arbitrary, or not based on the evidence. Brencick v. Spencer, 188 Ill.App.3d 217 (5th Dist. 1989).

In this case, Defendant-Appellant has failed to provide a Report of Proceedings or Bystander Report for the nonjury trial. Failure to provide the Appellate Court with a Report of Trial Proceedings deprives the Appellate Court of a basis for ruling on sufficiency of evidence issues, and in the absence of an adequate record, the Appellate Court presumes that the trial Court's resolution of issues conforms to the law and rests on a sufficient factual basis. In Re Marriage of Hildebrand, 166 Ill.App.3d 795 (5th Dist.

1988). Furthermore, any doubts which arise from an incomplete record will be resolved against the Appellant. Foutch v. O'Bryant, 99 Ill.2d 389 (1984).

The trial Judge in this case entered an Order which contained detailed findings of fact and conclusions of law following the hearing on Defendant-Appellant's Post Trial Motion. C24-25. In its Order, the trial Court found the City's witness credible and the Defendant-Appellant not believable. C24. Because the trial Court is in a far better position than the Appellate Court to determine the credibility of witnesses, the reviewing Court will not reconsider the evidence or reassess witness credibility or demeanor. Knights Prairie Hunting Club, Inc. v. Holmes, 263 Ill.App.3d 455 (5th Dist. 1994). The trial Court further found Defendant had falsely claimed to have requested a jury trial even though no jury demand was filed, nor a jury fee tendered, and that the Defendant-Appellant had submitted false pleadings in his Post Trial Motion. C24.

In his Post Trial Motion, and in his Brief, Defendant-Appellant has attempted to include matters not raised at trial and otherwise outside the record in this matter. C13. Defendant does, however, concede that "his written statement in his defense is not included in the record as it was filed with the City Clerk of Madison". Matters outside the record cannot be considered on appeal. Skrypek v. Mazzocchi, 227 Ill.App.3d 1 (2nd Dist. 1992). Furthermore, attachments to a Brief that are not part of the record cannot be used to supplement the record and will not be considered on appeal. Knights Prairie Hunting Club, Inc. v. Holmes, 263 Ill.App.3d 455 (5th Dist. 1994); Denny v. Haas, 197 Ill.App.3d 427 (5th Dist. 1990).

Defendant-Appellant contends that a landlord should not be found liable for a tenant's violation of the Ordinance if the tenant is also not found liable, and that, after his trial, he discovered that a prior citation against the tenant had been dismissed. Def. Brief at 9. Defendant-Appellant submits no authority for this assertion and we know of no such authority. Failure to cite relevant authority in support of a bare argument will not merit reconsideration on appeal. Charter Bank v. Eckert, 223 Ill.App.3d 918 (5th Dist. 1992); Rankin v. Heidlebaugh, 321 Ill.App.3d 255 (5th Dist. 2001); People Ex Rel Aldworth v. Dutkanych, 112 Ill.2d 505 (1986). Furthermore, a review of the Ordinance clearly indicates that it applies to landlords, as well as tenants or occupants. A4. Also, we know nothing about the circumstances of any claim dismissed. Was the wrong person named as Defendant? Was there an agreement to remedy the alleged violation? Did a witness fail to appear? Again, this is a matter outside the record. Contrary to Defendant-Appellant's claim, he was not found derivatively liable; he was directly liable under the Ordinance in that property owners, as well as tenants, are liable under the Ordinance. A4.

Defendant-Appellant also challenges the sufficiency of the evidence at trial and a failure to properly notify him of the alleged violation. Def. Brief P. 8-9. Given the lack of a Report of Proceedings at trial, and the trial Court's formal Order containing findings of fact and conclusion of law, these contentions must fail. In Re Marriage of Hildebrand, 166 Ill.App.3d 795 (5th Dist. 1988).

Finally, given the technical deficiencies apparent in Defendant-Appellant's Brief, coupled with his failure to follow applicable Supreme Court Rules, it must be noted that "while pro se litigants are held to a lesser standard in complying with the rules for appealing to the Appellate Court, there is a minimum which even they must meet before the Appellate Court can adequately review the lower Court's decision." Rock Island County v. Boalbey, 242 Ill.App.3d 461 (3rd Dist. 1993), In the Interest of A.H., 215 Ill.App.3d 522 (4th Dist. 1991). Even though Defendant-Appellant is proceeding pro se, his lack of legal training cannot be deemed a license which relieves him of the obligation to comply with the Supreme Court Procedural Rules. First Illinois Bank & Trust v. Galuska, 225 Ill.App.3d. 86 (1st Dist. 1993).

CONCLUSION

Plaintiff-Appellee, the City of Madison, requests this Court to affirm the judgment of the trial Court finding Defendant-Appellant guilty of the offense charged, the penalty imposed, and the denial of his Post Trial Motion.

