

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

ROSELLA ELLIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	No. 20 M1 102005
UNITED STATES DEPARTMENT OF HOUSING AND)	
URBAN DEVELOPMENT,)	Honorable
)	Mary K. McHugh,
Defendants-Appellees.)	Judge Presiding.
)	

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Hoffman and Connors concurred in the judgment.

ORDER

¶ 1 *Held:* We dismiss this appeal for lack of jurisdiction.

¶ 2 The plaintiff, Rosella Ellis, appeals *pro se* from the trial court's order dismissing her complaint against the defendant, the United States Department of Housing and Urban Development (the Department), for lack of jurisdiction. On appeal, the plaintiff argues that the trial court erred where it "allowed" the case to be removed to federal court; "failed to adhere to

appellant's right to a fair and impartial trial"; and failed to grant her a default judgment. For the following reasons, we dismiss the appeal.

¶ 3 On January 22, 2020, the plaintiff filed a complaint against the Department, alleging it breached its "lease/contract" with her in the following ways: (1) issuing a pass key to an employee against her wishes, resulting in an unlawful entry into her apartment where a number of her belongings were taken; (2) disregarding her attempts to rid her apartment of bed bugs and; (3) failing to provide her with the City of Chicago Bed Bug Ordinance despite her repeated requests. The Department was served with the complaint on February 19, 2020.

¶ 4 On March 12, 2020, the Department removed the case to federal court in the Northern District of Illinois pursuant to section 1442(a)(1) of Title 28 of the United States Code (28 U.S.C. § 1442(a)(1) (eff. Jan 2, 2013)). On April 3, 2020, during the pendency of the federal case, the plaintiff filed an "emergency motion" in the circuit court of Cook County seeking a default judgment against the Department because it had not filed an appearance or an answer within the required time.

¶ 5 On June 22, 2020, the federal district court dismissed the plaintiff's complaint on the basis of derivative jurisdiction without prejudice, noting that because the state court lacked jurisdiction due to sovereign immunity, the federal court did not acquire jurisdiction upon removal to federal court under § 1442. See *Ellis v. United States Department of Housing and Urban Development*, No. 1:20-cv-01744 (N.D. Ill. June 22, 2020). On August 3, 2020, the circuit court of Cook County dismissed the case for lack of jurisdiction and struck the emergency motion for default judgment because the case had been removed to federal court on March 12, 2020, under federal case number 1:20-cv-01744. On August 31, 2020, the plaintiff filed a motion for "jurisdiction," arguing that

pursuant to “section 2:3 of the Illinois constitution” the circuit court of Cook County had original jurisdiction on “all” justiciable matters, and therefore the federal case had no bearing on the matter. On September 15, 2020, the circuit court of Cook County entered a form motion call order specifying “[t]he dismissal order for lack of jurisdiction entered on 8-3-20 stands.” On October 13, 2020, the plaintiff filed a notice of appeal, specifying the date of judgment being appealed as the court’s September 15, 2020, order.

¶ 6 On appeal, the plaintiff contests the trial court’s dismissal for lack of jurisdiction, arguing it “failed to adhere” to her right to a fair and impartial trial and failed to grant her a default judgment. The plaintiff also raises issues as to whether the Department was entitled to remove the matter from the circuit court of Cook County to federal court and other jurisdiction issues related to the matter. Additionally, the plaintiff alleges that she lives in subsidized housing as a part of the Department’s program, and it had not provided any rental assistance for her, creating a “tremendous hardship” to her. She requests that this court reverse the trial court’s ruling and remand the matter for trial or, in the alternative, grant a default judgment.

¶ 7 The Department filed a statement of non-interest, stating that the case had been removed to federal court and, accordingly, the state matter could no longer proceed because the jurisdiction of the state court had ended. The Department stated that because the federal district court dismissed the complaint against the Department and did not remand the complaint to the state court, this court has no jurisdiction to review the federal court’s ruling. Further, the Department is no longer a party to the state court matter and has no interest in the state court appeal. This court has elected to consider this appeal based only on the plaintiff’s brief under the principles set forth in *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 131-133 (1976).

¶ 8 As a preliminary matter, we note the plaintiff’s brief fails to comply with many of the requirements of Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020), which governs the content of appellate briefs. For example, her brief contains no “Points and Authorities” statement outlining the points argued and authorities cited in the Argument section of the brief (see Rule 341(h)(1)). While plaintiff provides an outline of issues to be addressed in the argument, the appellate brief contains no argument further addressing these issues supported by citations to the record or legal authority (see Rule 341(h)(7)). We may strike a brief and dismiss the appeal for failure to comply with the rules. *Marzano v. Dept. of Emp’t. Sec.*, 339 Ill. App. 3d 858, 861 (2003). However, in spite of such deficiencies, it is clear from the plaintiff’s notice of appeal that she is challenging the September 15, 2020, order which specified “[t]he dismissal order for lack of jurisdiction entered on 8-3-20 stands.” We, therefore, elect not to dismiss the plaintiff’s appeal on the basis of her failure to comply with Rule 341. See *Estate of Jackson*, 354 Ill. App. 3d 616, 620 (2004) (the reviewing court has the choice to review the merits of the appeal, even in light of multiple Rule 341 deficiencies).¹

¶ 9 That said, we must address the jurisdictional issues that have arisen in this case. See *In re Marriage of Salviola*, 2020 IL App (1st) 182185, ¶ 36 (jurisdiction is a threshold issue and this court has an independent duty to consider its jurisdiction and dismiss an appeal where jurisdiction is lacking). In striking the plaintiff’s April 3 and August 31, 2020, motions, the circuit court of Cook County found that it lacked jurisdiction over the plaintiff’s case because it had been removed to federal court. A trial court’s lack of jurisdiction is not a complete bar to a reviewing court’s

¹ Additionally, the plaintiff raises facts before this court which were not before the trial court, regarding her financial hardships related to the claims on appeal. We will not consider any factual allegations raised for the first time on appeal. See *Osten v. Northwestern Memorial Hospital*, 2018 IL App (1st) 172072, ¶¶ 21-22.

exercise of jurisdiction. *Id.* at ¶ 29. Rather, our review is limited to considering the issue of jurisdiction below. *Id.*; see also *People v. Flowers*, 208 Ill. 2d 291, 307 (2003); *People v. Vasquez*, 339 Ill. App. 3d 546, 553 (2003); *People v. Vinokur*, 2011 IL App (1st) 090798, ¶ 18.

¶ 10 Here, the record shows that the plaintiff commenced a civil action in state court directed against the Department, an agency of the United States. On March 12, 2020, the Department removed the case to federal court in the Northern District of Illinois pursuant to section 1442(a)(1). See 28 U.S.C. § 1442(a)(1) (eff. Jan. 2, 2013) (A civil action commenced in a state court directed against the United States or any agency thereof may be removed by the defendant to the district court of the United States for the district and division for the place wherein the action is pending.); § 1446(d) (eff. Dec. 7, 2011) (A defendant seeking to remove a civil action from state court shall file a notice of removal with the federal court, and a copy of the notice with the clerk of the state court, “which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.”). When a case is removed to federal court, the entire action is transferred from state to federal court, and the state court loses jurisdiction until the case is remanded. *Hartlein v. Illinois Power Co.*, 151 Ill. 2d 142, 154 (1992). Once a notice of removal has been filed, the state court is prohibited from proceeding further unless there is an order of remand. See *Eastern v. Canty*, 75 Ill. 2d 566, 571 (1979) (collecting cases).

¶ 11 In this case, the circuit court of Cook County lost jurisdiction over the matter upon removal of the case to federal court. See *Hartlein*, 151 Ill. 2d at 154. Although the federal court dismissed the plaintiff’s complaint without prejudice it never remanded the case to the circuit court of Cook County. As such, the circuit court of Cook County never regained jurisdiction over the case. See 28 U.S.C. § 1446(d) (eff. Dec. 7, 2011) (when a case is removed to federal court the State court

shall proceed no further unless and until the case is remanded). Therefore, as noted by the circuit court, it was without jurisdiction to consider the plaintiff's April 3 and August 31, 2020, motions. Accordingly, the plaintiff finds herself in a procedural conundrum in which the federal court dismissed her complaint without remanding it to the circuit court of Cook County. Thus, the circuit court of Cook County was without jurisdiction over the case, therefore, this court also lacks jurisdiction to consider the plaintiff's appeal. See *People v. Blancas*, 2019 IL App (1st) 171127, ¶ 17 (citing *People v. Flowers*, 208 Ill. 2d 291, 307 (2003)).

¶ 12 For the reasons cited above, we dismiss the appeal for lack of jurisdiction.

¶ 13 Appeal dismissed.