THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2007-0704, Jeffrey Berry v. Glenda Michalchuk, the court on July 2, 2008, issued the following order:

The defendant, Glenda Michalchuk, appeals an order of the district court granting a writ of possession to the plaintiff, Jeffrey Berry. She argues that the trial court erred in: (1) failing to consider a January 2007 order; (2) ordering the issuance of a writ of possession because she had paid the required rent into escrow when the plaintiff refused to accept it; (3) finding that the plaintiff was due an increase in rent; and (4) failing to find that the landlord/tenant writ was invalid because it claimed an amount for rent that was not due and that did not reflect an agreement by the parties. She also contends that she is entitled to an award of attorney's fees incurred as a result of this appeal. We affirm.

We briefly restate our rules of appellate review. We will not consider evidence not presented to the trial court, Lake v. Sullivan, 145 N.H. 713, 717 (2001); we do not review any issue not raised in the trial court, State v. Blackmer, 149 N.H. 47, 48 (2003); see N.H. Dep't of Corrections v. Butland, 147 N.H. 676, 679 (2002)(errors first occurring in trial court order must be raised in motion for reconsideration before trial court to satisfy preservation requirement); and issues raised in a notice of appeal but not briefed are deemed waived, State v. Ayer, 154 N.H. 500, 519 (2006). These rules apply with equal effect to pro se litigants. See Simpson v. Young, 153 N.H. 471, 473 (2006).

As the defendant's counsel noted at oral argument, the hearing before the trial court was very brief. Neither party provided to the trial court a copy of the January 2007 order cited by the defendant in this appeal. Because the issue of the application and enforceability of the January 2007 order was not raised before the trial court, we decline to consider it on appeal.

The defendant also argues that she had paid the required rent into escrow after the plaintiff refused to accept it and that the plaintiff was not entitled to an increase in rent. To the extent that any aspect of these issues was raised in the trial court, they involve questions of fact. The trial court was in the best position to evaluate the evidence, measure its persuasiveness and appraise the credibility of witnesses. Hoffman v. Hoffman, 143 N.H. 514, 519 (1999).

The defendant's final argument cites deficiencies in the underlying writ. It is clear that this issue was neither raised at the hearing nor in a motion to reconsider. Accordingly, we will not consider it on appeal.

Affirmed.

DUGGAN, GALWAY and HICKS, JJ., concurred.

Eileen Fox,
Clerk