



**In the
Court of Appeals
Second Appellate District of Texas
at Fort Worth**

No. 02-22-00041-CV

THOMAS FLUCKER, Appellant

v.

SKYLANDING APARTMENTS, Appellee

On Appeal from County Court at Law No. 1
Tarrant County, Texas
Trial Court No. 2021-006343-1

Before Kerr, Birdwell, and Bassel, JJ.
Memorandum Opinion by Justice Kerr

MEMORANDUM OPINION

In this eviction case, Thomas Flucker has appealed from the trial court's judgment awarding possession of residential property, unpaid rent, and trial and appellate attorney's fees to appellee Skylanding Apartments.

Skylanding has moved to dismiss this appeal for want of prosecution and for Flucker's failure to respond to our notices requiring a response or other action within a specified time. *See* Tex. R. App. P. 42.3(b), (c). Specifically, Skylanding points out that Flucker (1) failed to file a docketing statement despite our February 15, 2022 late-docketing-statement notice directing him to file one within 10 days,¹ *see* Tex. R. App. P. 32.1, (2) failed to request a reporter's record,² and (3) failed to timely file his brief by the May 23, 2022 deadline set out in our April 22, 2022 letter to the parties. *See* Tex. R. App. P. 42.3(b), (c).

¹This was not the first time Flucker had failed to respond to a docketing-statement request. In our February 2, 2022 letter to the parties notifying them that we had received Flucker's notice of appeal, we directed Flucker to file a docketing statement by February 14, 2022.

²Although not pointed out by Skylanding, we note that on March 30, 2022, we notified Flucker that the court reporter had informed us that Flucker had not made a reporter's-record designation. *See* Tex. R. App. P. 34.6(b)(1), 35.3(b)(2). We warned him that if he did not send a designation to the court reporter and provide us with proof of that designation within 10 days, we could consider and decide those issues or points that do not require a reporter's record for a decision. *See* Tex. R. App. P. 37.3(c). But despite this warning, Flucker failed to take any action or to otherwise respond.

In Skylanding's May 24, 2022 dismissal motion, Skylanding's attorney certified that he had attempted to conference with Flucker on the motion's merits but had been unable to reach him. *See* Tex. R. App. P. 10.1(a)(5). More than 10 days have passed, and Flucker has not responded to the motion. *See* Tex. R. App. P. 10.3(a). Because Flucker has failed to prosecute his appeal and because he has failed to respond to our notices requiring a response or other action within a specified time, we grant Skylanding's motion and dismiss the appeal. *See* Tex. R. App. P. 42.3(b), (c), 43.2(f).

/s/ Elizabeth Kerr
Elizabeth Kerr
Justice

Delivered: June 23, 2022