

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Kimberly K. Williams,	:	
Plaintiff-Appellee,	:	
v.	:	No. 10AP-69 (C.P.C. No. 09CVH01-294)
Chris Hill et al.,	:	(REGULAR CALENDAR)
Defendants-Appellants.	:	

D E C I S I O N

Rendered on September 7, 2010

Kimberly K. Williams, pro se.

Chris Hill and Tanitra Hill, pro se.

APPEAL from the Franklin County Court of Common Pleas

KLATT, J.

{¶1} Defendants-appellants, Chris and Tanitra Hill, appeal from a judgment of the Franklin County Court of Common Pleas in favor of plaintiff-appellee, Kimberly K. Williams. For the following reasons, we affirm.

{¶2} On October 16, 2008, Williams initiated a breach of lease and forcible entry and detainer action against the Hills in the Franklin County Municipal Court. In response, the Hills filed an answer and counterclaim. The counterclaim asserted claims for violation of R.C. 5321.16, breach of lease, and negligent and/or intentional infliction of emotional distress. Because the counterclaim sought damages in excess of the monetary

jurisdiction of the municipal court, the municipal court transferred the case to the court of common pleas.

{¶3} After the transfer, the Hills voluntarily vacated Williams' property, making the forcible entry and detainer action moot and leaving only Williams' breach of lease claim and the Hills' counterclaim for adjudication. The Hills failed to appear for the final pre-trial conference or trial. Because of these absences, the trial court dismissed the Hills' counterclaim for lack of prosecution. Williams presented her case to the trial court, and the trial court ruled in her favor on her breach of lease claim. In a January 22, 2010 decision and entry, the trial court reduced its rulings to judgment and awarded Williams \$9,419.22 in damages. The Hills now appeal the January 22, 2010 judgment to this court.

{¶4} The Hills, who appear before this court pro se, have failed to include any assignments of error in their brief. An appellant's brief must contain "[a] statement of the assignments of error presented for review * * *." App.R. 16(A)(3). This requirement has great significance because appellate courts "[d]etermine [an] appeal on its merits on the assignments of error set forth in the briefs under App.R. 16 * * *." App.R. 12(A)(1)(b). Without assignments of error, an appellate court has nothing upon which to rule. *Chambers v. Ohio Dept. of Job & Family Servs.*, 10th Dist. No. 06AP-1043, 2007-Ohio-1493, ¶5.

{¶5} An appellate court may dismiss an appeal for an appellant's failure to follow the Rules of Appellate Procedure. App.R. 3(A); *Corbin v. Dailey*, 10th Dist. No. 08AP-802, 2009-Ohio-881, ¶7. However, this court prefers to resolve cases on their merits rather than upon procedural default. *Whipps v. Ryan*, 10th Dist. No. 07AP-231, 2008-

Ohio-1216, ¶23. Thus, despite the Hills' failure to comply with the Rules of Appellate Procedure, we will address the merits of the Hills' argument.

{¶6} As best we can determine, the Hills argue that the evidence does not support the damages award. Review of this argument requires a transcript of the proceedings below. The record, however, does not contain a transcript.

{¶7} Where a transcript is necessary for disposition of any question on appeal, the appellant bears the burden of taking the steps required to have the transcript prepared for inclusion in the record. App.R. 9(B); *Rose Chevrolet, Inc. v. Adams* (1988), 36 Ohio St.3d 17, 19. Absent a transcript, "the court has no choice but to presume the validity of the lower court's proceedings, and affirm." *Knapp v. Edwards Laboratories* (1980), 61 Ohio St.2d 197, 199. Here, because we lack a transcript to review, we must presume that the evidence supports the trial court's judgment. Therefore, we reject the Hills' argument to the contrary.

{¶8} Tangentially, we note that the Hills also contend that Williams is in breach of the lease. However, the Hills fail to offer any argument to support this contention. Without an argument, we have nothing to review.

{¶9} For the foregoing reasons, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

BRYANT and SADLER, JJ., concur.
