

No. 1-11-0766

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23 (e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ALFREDA ANDRUSZKIEWICZ,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	
)	
THE ILLINOIS DEPARTMENT OF EMPLOYMENT)	No. 10 L 51906
SECURITY; DIRECTOR of the Illinois Department of)	
Employment Security; THE BOARD OF REVIEW; and)	
the RIVER TRAIL PARK DISTRICT,)	The Honorable
)	Elmer James Tolmaire, III,
Defendants-Appellees.)	Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Presiding Justice Quinn and Justice Harris concurred in the judgment.

ORDER

- ¶ 1 *Held:* Circuit court's dismissal of *pro se* complaint for administrative review affirmed over plaintiff's claim that her failure to have summons issued to and served upon necessary defendant was due to her inadvertent omission of the defendant's address on the summons.
- ¶ 2 Plaintiff Alfreda Andruszkiewicz, *pro se*, appeals from an order of the circuit court of

Cook County dismissing her *pro se* complaint for administrative review of a ruling by the Illinois Department of Employment Security (Board) that she is ineligible for unemployment benefits under section 602A of the Illinois Unemployment Insurance Act (Act). 820 ILCS 405/602(A) (West 2010). On appeal, plaintiff contends, essentially, that the dismissal of her complaint should be reversed where her failure to have a summons issued and served on defendant River Trails Park District (Employer) within 35 days of the mailing date of the Board's decision was due to her inadvertent omission of the Employer's address on the summons.

¶ 3 Defendants initially respond that plaintiff has failed to comply with the supreme court rules governing appellate court briefs. We agree, as plaintiff has not included in her brief, *inter alia*, a statement of "Points and Authorities," a statement of jurisdiction, or citation to the portions of the record or authorities which support her position, as required. Ill. S. Ct. R. 341(h) (eff. Jul. 1, 2008). Nonetheless, our jurisdiction to entertain the appeal of a *pro se* plaintiff is unaffected by the insufficiency of her brief, as long as we understand the issue plaintiff intends to raise, and where, as here, we have the benefit of the cogent brief filed by the opposing party. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 4 The record shows, in relevant part, that plaintiff applied for unemployment benefits after being discharged from her position as a "cleaner" because of tardiness. A hearing was then held and a Department referee issued a decision on the issue of whether plaintiff was discharged for misconduct in connection with her work. Only the first page of the referee's decision, which is not at issue in this appeal, appears in the record. However, the record shows that the Board adopted the referee's decision and affirmed the denial of benefits pursuant to section 602A of the Act, and mailed a copy of its ruling to plaintiff on November 12, 2010.

¶ 5 On December 17, 2010, plaintiff filed a *pro se* complaint seeking administrative review of the Board's decision and attached a summons naming the Employer as one of the defendants in the caption. At the bottom of the summons, there is a section entitled "Certificate of Mailing" where the names and addresses of the Board and the director of the Department were pre-printed above blank lines for entering the corresponding employer information. Plaintiff did not provide the Employer's name or address on those lines, and instead, left them blank. Thereafter, the circuit court, on the State's motion, dismissed plaintiff's complaint with prejudice for failure to have a summons issued and served on the Employer within 35 days of the mailing date of the Board's decision. This appeal followed.

¶ 6 Defendant here maintains that the circuit court's dismissal of her complaint should be reversed where her failure to have a summons issued and served on the Employer was due to the fact that she inadvertently omitted the Employer's name and address from the "Certificate of Mailing" section on the summons. The State responds that plaintiff did not make a good faith effort to have a summons issued where she failed to provide the Employer's name and address, and that her complaint should be barred.

¶ 7 Under the Administrative Review Law, an action seeking review of a final administrative decision must be commenced by the filing of a complaint and the issuance of summons within 35 days from the date the decision was served upon the affected party. 735 ILCS 5/3-103 (West 2010). The administrative agency and all parties of record to the proceedings before the administrative agency must be named as defendants in such an action (735 ILCS 5/3-107(a) (West 2010)), and each must be served with summons (735 ILCS 5/3-105 (West 2010)).

Plaintiff therefore must file an affidavit with the complaint stating the last known address of each

defendant who should be served. 735 ILCS 5/3-105 (West 2010).

¶ 8 The failure to seek review of an administrative decision within the time and in the manner provided by the Administrative Review Law results in the parties being barred from obtaining judicial review of the decision. 735 ILCS 5/3-102 (West 2010). Although the 35-day period for issuance of summons is mandatory, not jurisdictional (*Burns v. Department of Employment Security*, 342 Ill. App. 3d 780, 786-87 (2003)), the procedures for review must be strictly followed (*Gunther v. Illinois Civil Service Comm'n*, 344 Ill. App. 3d 912, 914 (2003)). Thus, noncompliance may result in dismissal of the complaint absent a good faith effort to meet the deadline. *Burns*, 342 Ill. App. 3d at 787, citing *Carver v. Nall*, 186 Ill. 2d 554, 559 (1999). We review *de novo* the dismissal of plaintiff's complaint for failure to timely issue summons. *Gunther*, 344 Ill. App. 3d at 914.

¶ 9 At the outset, we note that the case at bar is analogous to *Gunther*. In that case, plaintiff filed a complaint for administrative review of a ruling which upheld his discharge from employment with the Illinois Department of Transportation (IDOT). *Gunther*, 344 Ill. App. 3d at 913. He attached a summons naming IDOT as a defendant in the caption, and wrote to the right of the caption, "Please Serve Defendants at: See Attached Service List Below." *Gunther*, 344 Ill. App. 3d at 913. However, in the "Certificate of Mailing" section at the bottom of the summons, plaintiff did not list the name of IDOT or IDOT's address, nor did he file an affidavit stating the addresses of defendants, and, consequently, IDOT was never served with a summons. *Gunther*, 344 Ill. App. 3d at 913. This court found that plaintiff's failure to have summons issue against each defendant within the 35-day period set forth in the Administrative Review Law required dismissal of his action. *Gunther*, 344 Ill. App. 3d at 914, citing 735 ILCS 5/3-102

(West 2002). This court further noted that plaintiff did not offer, and the record did not disclose, any evidence demonstrating a good faith effort to serve IDOT. *Gunther*, 344 Ill. App. 3d at 915.

¶ 10 The same result obtains here. The record shows that plaintiff filed a *pro se* complaint seeking administrative review of the Board's decision denying her unemployment benefits.

Although she attached a summons to the complaint which named the Employer as a defendant in the caption, she failed to provide the Employer's name or address in the "Certificate of Mailing" section at the bottom of the summons, and thus summons was not issued for and served upon the Employer, as required. Moreover, plaintiff has not offered, and the record does not show, any good faith effort to serve the Employer. We thus find, as in *Gunther*, that plaintiff's failure to have summons issue to the Employer within the 35-day period required by the Administrative Review Law warranted dismissal of her *pro se* complaint for administrative review. *Gunther*, 344 Ill. App. 3d at 914-15.

¶ 11 For the reasons stated, we affirm the judgment of the circuit court of Cook County.

¶ 12 Affirmed.