

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).

2013 IL App (4th) 121050-U

NO. 4-12-1050

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED  
May 31, 2013  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

PETER AKEMANN,	)	Appeal from
Plaintiff-Appellant,	)	Circuit Court of
v.	)	Sangamon County
PATRICK J. QUINN, Governor of Illinois; MITCH WEISZ,	)	No. 12MR846
Chairman of the Illinois Workers' Compensation	)	
Commission; and MARIO BASURTO, KEVIN	)	
LAMBORN, YOLAINE DAUPHIN, NANCY LINDSY,	)	
JAMES DEMUNNO, MOLLY MASON, DAN	)	
DONOHOO, THOMAS TYRRELL, DAVID GORE,	)	
CHUCK DEVRIENDT, RUTH WHITE, and MIKE LATZ,	)	
Commissioners of the Illinois Workers' Compensation	)	Honorable
Commission,	)	John Schmidt,
Defendants-Appellees.	)	Judge Presiding.

PRESIDING JUSTICE STEIGMANN delivered the judgment of the court. Justices Pope and Holder White concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* The appellate court affirmed, concluding that the trial court did not err by rejecting plaintiff's motion for a preliminary injunction.
- ¶ 2 In May 2012, defendant, the Illinois Workers' Compensation Commission (Commission) reappointed plaintiff, Peter Akemann, as an arbitrator, a position that he had held since December 1994. The Commission later met and passed a motion to rescind its reappointment of Akemann. Shortly after the Commission rescinded Akemann's reappointment, the Illinois General Assembly amended the Workers' Compensation Act, which, in part, changed the reappointment process. Pub. Act 97-719, § 10 (eff. June 29, 2012) (2012 Ill. Laws 429, 430)

(amending 820 ILCS 305/14 (West 2010)). The amended provision changed the reappointment power from the Commission to codefendant, the Governor, with the advice and consent of the Senate. Pub. Act 97-719, § 10 (eff. June 29, 2012) (2012 Ill. Laws 429, 432) (amending 820 ILCS 305/14(2) (West 2010)). The Governor did not reappoint Akemann.

¶ 3 Akemann sued, and in October 2012, he sought a preliminary injunction to enjoin the Commission from removing him as an arbitrator. Following a hearing held shortly thereafter, the court denied Akemann's motion.

¶ 4 Akemann appeals, arguing that the trial court erred by denying his motion for a preliminary injunction. We disagree and affirm.

¶ 5 I. BACKGROUND

¶ 6 In May 2012, the Commission reappointed Akemann to his position as a workers' compensation arbitrator, a position that he had held since December 1994. On June 12, 2012, the Commission met and passed a motion to rescind its reappointment of Akemann.

¶ 7 On June 29, 2012, the General Assembly amended the Workers' Compensation Act, which, in part, changed the reappointment process. Pub. Act 97-719, § 10 (eff. June 29, 2012) (2012 Ill. Laws 429, 432) (amending 820 ILCS 305/14 (West 2010)). The amended provision changed the reappointment power from the Commission to the Governor, with the advice and consent of the Senate. Pub. Act 97-719, § 10 (eff. June 29, 2012) (2012 Ill. Laws 429, 432) (amending 820 ILCS 305/12(2) (West 2010)). The Governor did not reappoint Akemann.

¶ 8 Akemann sued, and in October 2012 he filed a motion for a preliminary injunction, in which he requested that the trial court enjoin the Commission from removing him

as an arbitrator. Following a hearing held shortly thereafter, the court denied Akemann's motion for a preliminary injunction, in part, because Akemann had failed to show that "there [was] no adequate remedy at law."

¶ 9 This appeal followed.

¶ 10 II. THE TRIAL COURT DID NOT ERR BY DENYING  
AKEMANN'S MOTION FOR A PRELIMINARY INJUNCTION

¶ 11 Akemann argues that the trial court erred by denying his motion for a preliminary injunction. We disagree.

¶ 12 A. Preliminary Injunctions and the Standard of Review

¶ 13 A preliminary injunction is an extraordinary remedy that is designed to preserve the status quo until the merits of the case are decided. *Clinton Landfill, Inc. v. Mahomet Valley Water Authority*, 406 Ill. App. 3d 374, 378, 943 N.E.2d 725, 729 (2010). Trial courts should grant such an injunction *only* (1) in emergencies or (2) in situations in which serious harm would result if the preliminary injunction is not issued. *Id.*

¶ 14 To obtain a preliminary injunction, the moving party is required to show "(1) a clearly ascertained right in need of protection, (2) irreparable injury in the absence of an injunction, (3) no adequate remedy at law, and (4) a likelihood of success on the merits of the case." *Mohanty v. St. John Heart Clinic, S.C.*, 225 Ill. 2d 52, 62, 866 N.E.2d 85, 91 (2006). "To obtain a preliminary injunction, the movant must raise a 'fair question' that each of these elements is satisfied." *Roxana Community Unit School District No. 1 v. WRB Refining, LP*, 2012 IL App (4th) 120331 ¶ 23, 973 N.E.2d 1073.

¶ 15 In *Clinton Landfill, Inc.*, this court outlined the standard for reviewing a challenge

to a trial court's ruling on a motion for preliminary injunction, as follows:

"This court generally reviews a trial court's grant or denial of a preliminary injunction for an abuse of discretion. [Citation.] 'A trial court abuses its discretion only when its ruling is arbitrary, fanciful, or unreasonable, or when no reasonable person would adopt the court's view.' [Citation.] Where, however, a court does not make any factual findings and rules on a question of law, our review is *de novo*. [Citation.]" *Clinton Landfill, Inc.*, 406 Ill. App. 3d at 378, 943 N.E.2d at 729-30.

¶ 16 B. The Trial Court's Ruling as to the Preliminary Injunction in This Case

¶ 17 Here, the trial court denied Akemann's motion for a preliminary injunction because it concluded that Akemann had failed to show that "there [was] no adequate remedy at law." Akemann claims that the court erred in that regard because money damages alone are inadequate. Akemann posits that the deprivation of his property right in his position as arbitrator is an irreparable harm. Essentially, Akemann asserts that because he is entitled to his position as an arbitrator, defendants' decision to deprive him of that position cannot be remedied with the later assignment of money damages; he is entitled to work and that deprivation cannot be remedied at law. We are not persuaded.

¶ 18 If Akemann is successful in his lawsuit, he would be entitled to compensation in the form of money damages, including losses related to his salary and benefits, as well as reinstatement. Akemann's claim that he has a right to be at his job during the pendency of his lawsuit fails under both rationales justifying preliminary injunctions. First, Akemann's desire to

be at work is not an "emergency." See *Bollweg v. Richard Marker Associates, Inc.*, 353 Ill. App. 3d 560, 576, 818 N.E.2d 873, 887 (2004) (concluding that evidence established an *emergency* situation justifying maintaining the status quo—the predevelopment levels of drainage—given that the changes that resulted would make it difficult to grant the plaintiff any effective relief). And second, his desire to be at work is not a "situation in which serious harm [could] result." See *Roxana Community Unit School Dist. No. 1*, 2012 IL App (4th) 120331 ¶ 26, 973 N.E.2d 1073 (concluding that potential serious harm existed where violations of the Open Meetings Act—which ensures that "the actions of public bodies be taken openly and that their deliberations be conducted openly" (5 ILCS 120/1 (West 2010))—would likely persist). Accordingly, we agree with the trial court that Akemann did not show that no adequate remedy at law existed.

¶ 19 In closing, we note that as part of its findings in this case, the trial court found that Akemann suffered "irreparable injury." We view that finding as unfounded on this record but also inconsistent with the court's finding that an adequate remedy at law existed. However, because we review judgments rather than findings (see Illinois Supreme Court Rule 303(a)(1) (eff. June 4, 2008) (direct appeals in civil cases are taken from the circuit court's "final judgment")), and we agree—for the reasons that we have outlined—that Akemann did not demonstrate that no adequate remedy at law existed, the court's erroneous finding of "irreparable injury" does not change our disposition in this case.

¶ 20 III. CONCLUSION

¶ 21 For the reasons stated, we affirm the trial court's judgment.

¶ 22 Affirmed.