

No. 1-12-2507

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).

DELORES AMMONS-LEWIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County
)	
v.)	No. 11 L 51491
)	
METROPOLITAN WATER RECLAMATION)	
DISTRICT OF GREATER CHICAGO,)	Honorable
)	Robert Lopez-Cepero,
Defendant-Appellee.)	Judge Presiding.

JUSTICE PIERCE delivered the judgment of the court.
Presiding Justice Harris and Justice Simon concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not have subject matter jurisdiction to review the Illinois Workers' Compensation Commission's decision where plaintiff failed to perfect her appeal for administrative review.

¶ 2 Plaintiff, Delores Ammons-Lewis, appeals the judgment of the circuit court of Cook County quashing summons and dismissing her petition for administrative review. The circuit court found it lacked subject matter jurisdiction to consider her petition because plaintiff failed to

establish she timely filed proof of payment for the record or a written request for issuance of summons in compliance with section 19(f)(1) of the Workers' Compensation Act (Act) (820 ILCS 305/19(f)(1) (West 2010)). For the following reasons, we affirm.

¶ 3

BACKGROUND

¶ 4 We recite our understanding of the facts involved in this appeal in light of a seriously deficient brief filed by plaintiff that fails to clearly set forth relevant filing dates and the nature of relevant pleadings filed with the Commission and in the circuit court. An appellant has a duty to present a brief which sufficiently informs the court of the proceedings below. See Ill. S. Ct. R. 341 (h)(7) (eff. July 1, 2008); *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶¶ 17-18. When presented with deficient facts, we presume the proceedings below to be correct and plaintiff runs the risk of a ruling based on an incomplete record. *Rosestone Investments, LLC*, 2013 IL App (1st), ¶ 31.

¶ 5 Plaintiff sought benefits under the Act for injuries to her back and right leg arising out of her employment with defendant. Plaintiff filed an application for adjustment of claim with the Illinois Workers' Compensation Commission (Commission) on November 25, 1997. After a hearing, an arbitrator awarded plaintiff benefits for her claim. Thereafter, plaintiff filed a petition for review with the Commission. Defendant moved to dismiss on the ground that "the transcript had not been authenticated." On November 23, 2011, the Commission dismissed the petition for review.

¶ 6 The record shows that on December 21, 2011, plaintiff filed a handwritten petition for administrative review with the clerk of the circuit court of Cook County. There is no indication in the record that when the petition was filed plaintiff tendered a receipt of proof of payment for

the record or a written request for issuance of summons. On December 23, 2011, plaintiff filed four additional documents with the clerk of the circuit court: (1) a certificate stating that she mailed a copy of the summons to the Commission and defendant; (2) a type-written complaint in administrative review; (3) a summons issued to the Commission; and (4) a summons issued to defendant. Both the complaint and plaintiff's circuit court filings incorrectly note that the Commission's decision of dismissal was rendered on December 1, 2011. No written request for issuance of summons and no receipt of payment of costs of preparation of the record were filed as of December 21, 2011.

¶ 7 On March 26, 2012, defendant filed a motion to quash summons and dismiss the action arguing plaintiff had failed to strictly comply with the requirements of section 19(f)(1) and, therefore, the circuit court lacked subject matter jurisdiction over plaintiff's appeal. According to defendant, the summons should not have been issued before plaintiff exhibited and filed or shown by affidavit proof of payment for the record and a written request for issuance of summons. Plaintiff did not file a response to defendant's motion. On July 5, 2012, after arguments of counsel, the circuit court quashed summons and dismissed plaintiff's petition. This appeal followed.

¶ 8 ANALYSIS

¶ 9 Plaintiff contends the circuit court erred in quashing summons and dismissing her action for lack of subject matter jurisdiction. Plaintiff does not cite any case law or statutory provision in support of her appeal and instead attempts to dismiss the holding in *Bracy v. Industrial Comm'n*, 338 Ill. App. 3d 285, 288 (2003) citing *Fisher v. Industrial Commission*, 231 Ill. App. 3d 1061 (1992) relied on by defendant in the circuit court. Plaintiff concedes she did not "file

immediately proof of payment for the record at the Workers Compensation Commission or a request for issuance of summons." This is a judicial review proceeding pursuant to section 19(f)(1) of the Act. Circuit courts are courts of general jurisdiction and have a presumption of subject matter jurisdiction. *Kavonious v. Industrial Comm'n*, 314 Ill. App. 3d 166, 169 (2000). However, circuit courts exercise special statutory jurisdiction over workers' compensation claims. *Id.* Circuit courts obtain subject matter jurisdiction over an appeal from the Commission only when the appellant strictly complies with the requirements set forth in the Act. *Id.*; *Gruszczyka v. Illinois Workers' Compensation Comm'n*, 2013 IL 114212, ¶ 13 ("This court has consistently held that the timely filing of a request for issuance of summons and the timely exhibition of proof of payment for the probable cost of the record (both of which are necessary for commencement of a judicial review action under section 19(f)(1)) are jurisdictional requirements that must be strictly adhered to in order to vest the circuit court with jurisdiction.").

¶ 10 Section 19(f)(1) of the Act, governs the procedure for appealing from a decision of the Commission to the circuit court for review. Section 19(f)(1) states in pertinent part:

"(1) Except in cases of claims against the State of Illinois *** the Circuit Court of the county where any of the parties defendant may be found, ***shall by summons to the Commission have power to review all questions of law and fact presented by such record.

A proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission. The summons shall be issued by the clerk of such court upon written request returnable on a designated return day, not less than 10 or more than 60 days from the date of issuance thereof, and the written request shall contain

the last known address of other parties in interest and their attorneys of record who are to be served by summons. ***

In its decision on review the Commission shall determine in each particular case the amount of the probable cost of the record to be filed as a part of the summons in that case *and no request for a summons may be filed and no summons shall issue unless the party seeking to review the decision of the Commission shall exhibit to the clerk of the Circuit Court proof of payment by filing a receipt showing payment or an affidavit of the attorney setting forth that payment has been made of the sums so determined to the Secretary or Assistant Secretary of the Commission ***.*" (Emphasis Added.) 820 ILCS 305/19(f)(1) (West 2010).

¶ 11 To perfect jurisdiction in the circuit court, a proceeding for review must be commenced within 20 days of the receipt of notice of the Commission's decision. 820 ILCS 305/19(f)(1) (West 2010). "[A] request for summons under section 19(f) is how one commences an appeal of the Commission's decision to the circuit court." *Gruszczyka*, 2013 IL 114212, ¶ 23. Under the Act, a request for issuance of summons cannot be filed and no summons shall issue unless the party seeking review shows proof of payment to the Commission for the record. 820 ILCS 305/19(f)(1). Upon receipt of the payment and written request for issuance of summons, the clerk issues a summons. *Beasley*, 198 Ill. App. 3d at 465; 820 ILCS 305/19(f)(1). A claimant must timely file request for issuance of summons and timely exhibit proof of payment for the record to vest the circuit court with jurisdiction. *Gruszczyka*, 2013 IL 114212, ¶ 13. A summons

erroneously issued by the clerk of the circuit court does not excuse the failure to follow the statutory prerequisites. *Bracy v. Industrial Comm'n*, 338 Ill. App. 3d 285, 288 (2003).

¶ 12 Compliance with the statutory requirements must appear of record. *Id.* at 286. Plaintiff argues that the circuit court obtained subject matter jurisdiction when she filed her petition for administrative review within 20 days after receiving the Commission's decision even though the request for issuance of summons and proof of payment for the record were not filed in that 20 day time period.

¶ 13 Plaintiff asserts she filed a copy of summons issued to defendant and the Commission on December 23, 2011, two days late, and the request for issuance of summons and proof of payment for the record on May 8, 2012, six months after the Commission's decision was issued and five months after her petition for review was filed in the circuit court. The record does not contain a written request for issuance of summons or proof of payment for the record. However, defendant agrees the proof of payment was filed on May 8, 2012, but disputes whether the written request for issuance of summons was ever filed. The appellant has the burden to provide us with a sufficiently complete record. See *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984) (in the absence of a complete record we presume the trial court's order was in conformity with the law and had a sufficient factual basis and any doubts therefrom are resolve against the appellant).

Whether plaintiff filed the written request for issuance of summons and the proof of payment in May, 2012, is of no consequence to the outcome here.

¶ 14 The record shows the Commission issued its decision on November 23, 2011. Plaintiff asserts she received the Commission's decision on December 1, 2011. Plaintiff had until the 20th day after December 1, 2011, to place in the mail (see *Gruszczyka*, 2013 IL 114212, ¶ 28) or file

the required documents to perfect jurisdiction in the circuit court for the appeal. Plaintiff filed the petition for review in the circuit court on December 21, 2011, the 20th day and the end of the statutory period. However, she did not file the proof of payment or written request for issuance of summons at that time, or any time prior to the end of the 20 day statutory period. The clerk of the circuit court issued the summons to the Commission on December 23, 2011, before plaintiff filed proof of payment for the record and written request for issuance of summons. Clearly, there was not strict compliance with the requirements of the Act. Compliance with the statutory requirements for issuance of summons must appear of record. *Arrington v. Industrial Comm'n*, 96 Ill. 2d 505, 508 (1983).

¶ 15 The failure to strictly comply with the Act "deprives the circuit court of subject matter jurisdiction over the appeal." *Esquivel v. Illinois Workers Compensation Commission*, 402 Ill. App. 3d 156, 160 (2010). To vest the circuit court with subject matter jurisdiction, all statutorily required documents must be filed within the proscribed 20 day time period after plaintiff receives the Commission's decision. *Id.*; *Gruszczyka*, 2013 IL 114212, ¶ 13. Late filing of the receipt of payment and request for issuance of summons "cannot retroactively vest the circuit court with jurisdiction." *Bracy*, 338 Ill. App. 3d at 287. Plaintiff invites this court to ignore *Bracy* because that case involved a failure to file the complaint within twenty days of service of the commission's decision and *Fisher* because a number of years passed before claimant's failure to file a request for issuance of summons was discovered. Plaintiff argues that her complaint for review was timely filed and the filing of the required documents six months after the decision was served is sufficient. In short, no harm no foul. We decline the invitation. Plaintiff does not advance any argument or cite any case law that would arguably justify a departure from the clear

requirements of section 19(f)(1) and established case law (*Esquivel*, 402 Ill. App. 3d at 160; *Gruszczyka*, 2013 IL 114212, ¶ 13) that clearly requires strict compliance with the requirements of the Act. See Ill. S. Ct. R. 341 (h)(7) (eff. July 1, 2008) (the failure to cite case law or properly develop a legal argument results in the argument's forfeiture); *Schrager v. Bailey*, 2012 IL App (1st) 111943, ¶ 30. Plaintiff's contention that a late filing is sufficient flies in the face of clear statutory directives and a change in this requirement is for the legislature to make not this court. Therefore, plaintiff's failure to file the proof of payment and written request for issuance of summons within 20 days of receiving the Commission's decision deprived the circuit court of subject matter jurisdiction. Accordingly, we affirm the judgment of the circuit court of Cook County.

¶ 16

CONCLUSION

¶ 17 For the reasons indicated above, we affirm the judgment of the circuit court of Cook County.

¶ 18 Affirmed.