

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).

NO. 5-10-0404WC

Order filed June 27, 2011.

IN THE APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

Workers' Compensation Commission Division

ANDREW SIMPSON,)	Appeal from
Appellant,)	Circuit Court of
v.)	St. Clair County.
WORKERS' COMPENSATION COMMISSION <i>et al.</i>)	No. 10-MR-115
(Amerock Corporation, Appellee).)	
)	Honorable
)	Andrew J. Gleeson,
)	Judge, Presiding.

PRESIDING JUSTICE McCULLOUGH delivered the judgment of the court. Justices Hoffman, Hudson, Holdridge, and Stewart concurred in the judgment.

ORDER

Held: The Workers' Compensation Commission correctly found that it lacked jurisdiction to consider motions filed by claimant in reference to a claim for workers' compensation benefits that had been fully and finally decided. The circuit court also lacked jurisdiction over claimant's petition for judicial review of the Commission's decision.

Claimant, Andrew Simpson, sought judicial review of a decision of the Workers' Compensation Commission (Commission) that denied various motions he filed before the Commission due to a lack of jurisdiction. The circuit court of St. Clair County dismissed

claimant's petition for judicial review, finding it also lacked jurisdiction to hear the matter.

Claimant appeals. We affirm.

Claimant sought benefits from employer, Amerock Corporation, pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2002)) for injuries he allegedly sustained on August 27, 1981. His claim was stayed for several years after he was found to be suffering from a legal disability due to the result of numerous psychiatric problems. On February 27, 2001, claimant filed a petition for an immediate hearing under the Act and was, ultimately, allowed to proceed with his claims through a guardian *ad litem*. On June 3, 2004, following a hearing, the arbitrator found claimant failed to establish his entitlement to compensation. On October 29, 2004, the Commission affirmed and adopted the arbitrator's decision. On April 14, 2005, the circuit court of St. Clair County confirmed the Commission's decision. Claimant appealed and, on December 30, 2005, this court issued a summary order that affirmed the circuit court's judgment.

The record shows claimant later filed a second application for adjustment of claim, seeking benefits under the Act. He alleged the same accident date. Claimant's second claim for benefits was denied on the basis of *res judicata*.

In 2009, claimant began filing motions to void or vacate judgment with the circuit court, appellate court, and Commission. On September 1, 2009, the circuit court entered an order, finding it lacked jurisdiction to hear the motion and noting this court's December 2005 summary order. On October 9, 2009, this court ordered claimant's motions to vacate and void judgment to be stricken for lack of appellate jurisdiction.

The motions claimant filed with the Commission included motions to void order,

to supplement the record, for relief from judgment, and for default judgment. On March 17, 2010, the Commission issued a decision, finding it lacked jurisdiction to consider any of claimant's motions. It recounted the procedural history regarding claimant's workers' compensation claims and noted the case had not been remanded to it by any reviewing court.

On May 4, 2010, claimant filed a petition for judicial review of the Commission's March 2010 decision. He requested the circuit court reverse and remand the Commission's decision and grant an award of benefits under the Act. On July 2, 2010, the court dismissed claimant's petition, referencing his previous litigation and finding it had no jurisdiction to hear the matter. On July 12, 2010, claimant filed a motion to reconsider which the court denied.

This appeal followed.

Initially, we note, claimant filed a *pro se* brief that fails to comply with relevant Supreme Court Rules (Ill. S. Ct. R. 341 (eff. July 1, 2008); R. 342 (eff. Jan. 1, 2005)). He also asserts facts not contained in the record, fails to address issues involving the Commission's jurisdiction, and presents facts and arguments that are confusing and difficult to follow. Employer has moved to strike claimant's brief, noting that it improperly failed to contain a table of contents of the record on appeal, page references to points and authorities, citations to the record, a certificate of service, and a correct certificate of compliance. Although claimant's brief is deficient in several respects, we decline to strike his entire brief. Employer's motion to strike is denied.

On appeal, claimant seeks review of the Commission's March 2010 decision finding it lacked jurisdiction to address the various motions claimant filed before it and denying them. As stated, claimant failed to address the issue of the Commission's jurisdiction in his brief,

and instead, he makes arguments that can be best characterized as attacking the original decision to deny him benefits under the Act. Claimant argues that (1) because he was determined to be legally disabled, section 13-211 of the Code of Civil Procedure (735 ILCS 5/13-211 (West 2002)) sets forth the applicable statute of limitations; (2) the appointment of a guardian does not effectively lift stays of Commission orders; and (3) *res judicata* consequences do not apply to void judgments. For the reasons that follow, we find the Commission and the circuit court correctly found a lack of jurisdiction to address claimant's motions and request for judicial review of the Commission's decision.

"The doctrine of *res judicata* provides that a final judgment on the merits rendered by a court of competent jurisdiction bars any subsequent actions between the same parties or their privies on the same cause of action.' [Citation.]" *Hudson v. City of Chicago*, 228 Ill. 2d 462, 467, 889 N.E.2d 210, 213 (2008). "*Res judicata* bars not only what was actually decided in the first action but also whatever could have been decided." *Hudson*, 228 Ill. 2d at 467, 889 N.E.2d at 213.

In October 2004, the Commission determined claimant failed to establish his entitlement to benefits under the Act for injuries he allegedly sustained at work on August 27, 1981. The circuit court confirmed the Commission's decision, and in December 2005, this court affirmed the circuit court's judgment. Claimant's action for benefits as it relates to his alleged August 1981 work accident has been fully and finally decided. The motions he filed with the Commission and his petition for judicial review involve the same parties and address the same cause of action, *i.e.*, a claim for workers' compensation benefits for an August 1981 work accident. Claimant makes the argument that *res judicata* is inapplicable to void judgments but

presents no cogent argument that a void judgment was entered in relation to his claim for benefits. As a result, *res judicata* applies and his actions are barred.

Additionally, the Act provides no authority for the Commission to grant claimant's requested relief. "[A]ny action taken by the Commission must be specifically authorized by statute." *Cassens Transport Co. v. Industrial Comm'n*, 218 Ill. 2d 519, 525, 844 N.E.2d 414, 419 (2006). "An act that is unauthorized is beyond the scope of the agency's jurisdiction." *Cassens*, 218 Ill. 2d at 525, 844 N.E.2d at 419. The supreme court has found only two instances where the Act permits the Commission to modify a final award: (1) section 19(f) (820 ILCS 305/19(f) (West 2008)) which gives the Commission limited authority to correct clerical or computational errors and (2) section 19(h) (820 ILCS 305/19(h) (West 2008)) which "gives the Commission authority to review an installment award within 30 months of its entry ***." *Cassens*, 218 Ill. 2d at 525-26, 844 N.E.2d at 419-20. Neither section is applicable to the facts of this case. The Commission correctly found it lacked jurisdiction to address claimant's motions.

Employer asks this court to impose sanctions on claimant pursuant to Supreme Court Rule 375 (eff. Feb. 1, 1994), arguing that his appeal is frivolous and without merit. Rule 375(b) (eff. Feb. 1, 1994) permits sanctions to be imposed when "it is determined that the appeal *** is frivolous, or that an appeal or other action was not taken in good faith, for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation[.]" Whether to impose sanctions is within the appellate court's discretion. *Residential Carpentry, Inc. v. Workers' Compensation Comm'n*, 389 Ill. App. 3d 975, 976, 910 N.E.2d 109, 111 (2009).

In this instance, we decline to impose sanctions. However, we also caution claimant against making further attempts to relitigate this same cause of action.

For the reasons stated, we affirm the circuit court's judgment.

Affirmed.