

No. 1-13-1819WC

**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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

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DOROTHY R. CROWDER,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 13-L-50373
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION and	)	
THOMPSON HOSPITALITY SERVICES,	)	Honorable
	)	Robert Lopez-Cepero,
Defendant-Appellee.	)	Judge, Presiding.

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JUSTICE HUDSON delivered the judgment of the court.  
Presiding Justice Holdridge and Justices Hoffman, Harris, and Stewart concurred in the judgment.

**ORDER**

¶ 1 *Held:* Claimant established compliance with all steps necessary to commence statutory review in the circuit court of the Commission's decision within the statutory 20-day period. Accordingly, the order of circuit court

granting respondent's motion to dismiss claimant's appeal would be reversed and the cause would be remanded for further proceedings.

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¶ 3 Claimant, Dorothy R. Crowder, appeals *pro se* from the judgment of the circuit court of Cook County granting the motion of respondent, Thompson Hospitality Services, to dismiss her appeal for failure to comply with section 19(f)(1) of the Workers' Compensation Act (Act) (820 ILCS 305/19(f)(1) (West 2010)). On appeal, claimant argues that the circuit court erred in granting respondent's motion to dismiss because all of the steps necessary to commence statutory review in the circuit court were completed within the statutory 20-day period as required by section 19(f)(1). We agree with claimant. Therefore, we reverse the judgment of the circuit court and remand this cause for further proceedings.

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The following pertinent facts are gleaned from the record on appeal. Claimant was employed by respondent as a salad preparation chef. She filed two applications for adjustment of claim alleging separate injuries to her left upper extremity on November 15, 2004 (No. 04 WC 59615), and September 22, 2005 (No. 05 WC 51114), while in respondent's employ. Prior to arbitration, claimant's two applications were consolidated. An arbitration hearing was held on February 12, 2012, and the arbitrator rendered her decisions on July 11, 2012. In both cases, the arbitrator determined that claimant sustained an accident that arose out of and in the course of her employment with respondent and that her current condition of ill-being was, in part, causally related to the accident. In case No. 04 WC 59615, the arbitrator awarded claimant 2 weeks of temporary total disability benefits and 28.5 weeks of permanent partial disability (PPD) benefits, representing a 15% loss of use

of the left hand. In case No. 05 WC 51114, the arbitrator awarded claimant 15.18 weeks of PPD benefits, representing a 6% loss of use of the left arm, subject to a credit in respondent's favor of \$4,210.46.

¶ 5

Claimant appealed the matters to the Illinois Workers' Compensation Commission (Commission). On March 15, 2013, the Commission affirmed and adopted the arbitrator's decisions. The Commission fixed the probable cost of preparing the record of proceedings at \$35. Claimant received the Commission's decisions on March 21, 2013. On April 10, 2013, claimant paid \$35 to the Commission for preparation of the record on appeal in case Nos. 04 WC 59615 and 05 WC 51114 and received a receipt for the payment. Also on April 10, 2013, claimant filed a written request for summons with the circuit court.

¶ 6

On April 26, 2013, respondent filed a motion to dismiss, asserting that claimant failed to comply with all of the steps necessary to commence review in the circuit court. In particular, respondent argued that claimant (1) failed to initiate the appeal process within 20 days after receiving notice of the Commission's decision and (2) failed to exhibit to the circuit court proof of payment of the probable cost of the record. See 820 ILCS 305/19(f)(1) (West 2010). On May 30, 2012, the trial court granted respondent's motion to dismiss. That same day, claimant filed *pro se* a notice of appeal to this court.

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While Illinois Courts are courts of general jurisdiction and are presumed to have subject-

matter jurisdiction, this presumption does not apply to workers' compensation proceedings. *Residential Carpentry, Inc. v. Kennedy*, 377 Ill. App. 3d 499, 502 (2007). Rather, on appeal from a decision of the Commission, the circuit court obtains subject-matter jurisdiction only if the appellant complies with the statutorily-prescribed conditions set forth in the Act. *Residential Carpentry, Inc.*, 377 Ill. App. 3d at 502. At issue in this case is whether claimant complied with the provisions of section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2010)). Section 19(f)(1) provides in relevant part as follows:

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“[T]he Circuit Court \*\*\* shall by summons to the Commission have power to review all questions of law and fact presented by such record.

¶ 9

A proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission.

¶ 10\* \* \*

¶ 1 1

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.” 820 ILCS 305/19(f)(1) (West 2010).

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Claimant insists that she complied with the requirements of section 19(f)(1). Claimant notes that she received notice of the Commission’s decisions on March 21, 2013, and commenced judicial review within 20 days of that date, when, on April 10, 2013, she filed in the circuit court a request for summons. Claimant further contends that the record contains a copy of the receipt she obtained from the Commission for the probable cost of the record. As such, she argues that the circuit court erred in granting respondent’s motion to dismiss.

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Respondent counters that the “statute of limitations for filing a judicial review” of the Commission’s decisions expired on April 9, 2013, but claimant did not file her request for summons in the circuit court until April 10, 2013, or 21 days after receipt of the Commission’s decisions. Respondent further argues that although a receipt from the Commission for the probable cost of preparing the record is included in the record, there is no evidence that this receipt was filed prior to the issuance of the summons. For these reasons, respondent urges us to affirm the decision of the circuit court.

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Initially, we conclude that claimant timely initiated judicial review of the Commission’s decisions. It is undisputed that claimant received notice of the Commission’s decisions on March 21, 2013. Therefore, she had 20 days from that date to commence proceedings in the circuit court. In calculating the 20-day statutory period, respondent counts March 21, 2013,

the day claimant received notice of the Commission’s decision. However, section 19.1 of the Act (820 ILCS 305/19.1 (West 2010)), which governs the computation of time under the Act, provides:

¶ 1 5  
“The time within which any act is required to be performed under any of the provisions of this Act shall be computed by *excluding the first day* and including the last, unless the last day is Saturday, Sunday or is a holiday as defined or fixed in any statute now or hereafter in force in this State, and then such days shall also be excluded. If the day succeeding such holiday is also a holiday then such succeeding day shall also be excluded.” (Emphasis added.)

¶ 1 6  
Thus, section 19.1 expressly instructs that the first day is *excluded*. Excluding March 21, 2013, the day claimant received notice of the Commission’s decision, we calculate that claimant had until April 10, 2013, 20 days after she received notice of the Commission’s decision, to commence review in the circuit court. The record clearly establishes that claimant filed her request for summons in the circuit court on April 10, 2013. As such, she commenced review in the circuit court in a timely manner, and the circuit court erred in granting respondent’s motion to dismiss claimant’s appeal on this basis.

¶ 1 7  
We also reject respondent’s contention that the record is insufficient to establish whether claimant filed with the circuit court, prior to the issuance of summons, the receipt showing

payment to the Commission of the probable cost of the record. As noted above, the record establishes that the Commission set the probable cost of the record on appeal at \$35. The record contains a receipt dated April 10, 2013, issued to claimant by the Commission, acknowledging payment of \$35 for case Nos. 04 WC 59615 and 05 WC 51114. Although the receipt itself is not file stamped by the circuit clerk, it is included in the record in a sequence of 12 pages consisting of the following documents: (1) a civil action cover sheet; (2) two copies of a request to the clerk of the circuit court to issue summons; (3) a letter from claimant dated April 9, 2013, explaining the history of her injury; (4) an application and affidavit to sue or defend in the circuit court as an indigent person; and (5) an order granting claimant's application to sue or defend as an indigent person. The civil action cover sheet and the requests to issue summons are file stamped April 10, 2013, by the clerk of the court. Similarly, the order granting claimant's application to sue or defend as an indigent person was entered April 10, 2013. Under these circumstances, we find that claimant has established that she exhibited to the clerk of the circuit court proof of payment of the probable cost of the record prior to the issuance of summons.

¶ 1 8

As claimant complied with all of the conditions precedent for judicial review, we reverse the judgment of the circuit court granting respondent's motion to dismiss and remand this cause for further proceedings.

¶ 1 9

Reversed and remanded.