

2024 IL App (3d) 230290WC-U
No. 3-23-0290WC
Order filed April 24, 2024

NOTICE: This order was filed under Supreme Court Rule 23(b) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

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

LLOYD IVY, II,)	Appeal from the Circuit Court
)	of LaSalle County.
Appellant,)	
)	
v.)	No. 20-MR-252
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION, <i>et al.</i> ,)	
)	Honorable
(Housing Authority of LaSalle)	Jason Helland,
County, Appellee).)	Judge, Presiding.

JUSTICE MULLEN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Cavanagh, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly granted employer's motion to dismiss employee's request for judicial review for lack of subject-matter jurisdiction. Affirmed.

¶ 2 Claimant, Lloyd Ivy, II, sought judicial review of a decision of the Illinois Workers' Compensation Commission (Commission) in the circuit court of LaSalle County. Respondent, the Housing Authority of LaSalle County, filed a motion to dismiss claimant's request for judicial

review. Respondent contended that the circuit court lacked jurisdiction to consider the request because the proceeding for review was not commenced within 20 days of the receipt of notice of the Commission's decision as required by section 19(f)(1) of the Workers' Compensation Act (Compensation Act) (820 ILCS 305/19(f)(1) (West 2020)).¹ The circuit court granted respondent's motion to dismiss. Claimant appeals. We affirm.

¶ 3

I. BACKGROUND

¶ 4 Respondent operates affordable housing units for residents of LaSalle County, Illinois. Claimant was employed by respondent as a maintenance technician. In this role, claimant's duties included painting, performing plumbing and electrical work, and cleaning housing units. Claimant filed an application for adjustment of claim seeking benefits under the Workers' Occupational Diseases Act (Diseases Act) (820 ILCS 310/1 *et seq.* (West 2010)) after he was allegedly stuck by a syringe in April 2010 and contracted Hepatitis C while cleaning one of respondent's housing units. The claim proceeded to an arbitration hearing. On December 2, 2019, the arbitrator filed a decision denying claimant's application for benefits. The arbitrator concluded that claimant failed to prove accident and causation and that he failed to provide respondent with adequate notice of the alleged accident.

¹ During these proceedings, the parties, the Commission, and the circuit court repeatedly reference provisions of the Compensation Act. We note, however, that claimant's application for adjustment of claim was filed pursuant to the Workers' Occupational Diseases Act (820 ILCS 310/1 *et seq.* (West 2010)). Regardless, the relevant language of section 19(f), the statutory provision at issue, is identical in both the Compensation Act and the Workers' Occupational Diseases Act. Compare 820 ILCS 305/19(f) (West 2020) with 820 ILCS 310/19(f) (West 2020).

¶ 5 Claimant filed a petition for review of the arbitrator’s decision with the Commission. The Commission issued a notice of return date on review providing that the reviewing party shall present an authenticated transcript of the arbitration proceedings to the Commission by March 27, 2020. On April 22, 2020, respondent filed a “Motion to Strike” claimant’s petition for review. In the motion, respondent asserted that the Commission lacked jurisdiction to review the arbitrator’s decision because, in violation of section 9040.10(c)(1) of the rules governing practice before the Commission (50 Ill. Admin. Code 9040.10(c)(1) (2020)) and section 19(b) of the Compensation Act (820 ILCS 305/19(b) (West 2020)), claimant failed to file a fully authenticated transcript of the arbitration proceedings.²

¶ 6 On April 24, 2020, the Commission issued a motion for a rule to show cause why claimant’s petition for review should not be dismissed for the failure to file an authenticated transcript of the arbitration proceedings. A hearing on the Commission’s motion was set for June

² Sections 19(b) of both the Compensation Act and the Diseases Act require that the party petitioning for review file with the Commission either an agreed statement of facts or a correct transcript of the evidence of the proceedings at the arbitration hearing. 820 ILCS 305/19(b) (West 2020); 820 ILCS 310/19(b) (West 2020). Likewise, sections 19(b) of both statutes require the agreed statement of facts or transcript to “be authenticated by the signatures of the parties or their attorneys.” 820 ILCS 305/19(b) (West 2020); 820 ILCS 310/19(b) (West 2020). In the event the parties do not agree to the correctness of the transcript of evidence, sections 19(b) of the statutes further provide that the transcript “shall be authenticated by the signature of the Arbitrator designated by the Commission.” 820 ILCS 305/19(b) (West 2020); 820 ILCS 310/19(b) (West 2020).

18, 2020. The notice of the hearing on the Commission’s motion provided that if an authenticated transcript was filed with the Commission within 10 days of the date of the notice, *i.e.*, May 4, 2020, the motion for rule to show cause would be satisfied and there would be no need to appear at the June 18, 2020, hearing. It is undisputed that at no time prior to May 4, 2020, was an authenticated transcript filed.

¶ 7 A hearing was held before Commissioner Maria Portela on June 18, 2020, at which the parties argued their respective positions and Commissioner Portela announced a ruling in the matter. A court reporter was not present at the June 18, 2020, hearing, so the parties reconvened before Commissioner Portela on July 6, 2020, “to make a record in this matter.” After the parties again presented their respective positions, Commissioner Portela “rule[d] for the record” and announced that she would grant respondent’s motion to strike claimant’s petition for review.

¶ 8 On July 17, 2020, claimant filed in the circuit court of LaSalle County various documents, including a “Written Request to Commence Proceedings for Review of the Decision of the Illinois Workers’ Compensation Commission” and a “Notice of Intent to File for Review of the Decision of the Illinois Workers’ Compensation Commission.” On July 30, 2020, Commissioner Portela issued a written order of the Commission granting respondent’s motion to strike claimant’s petition for review on the basis that petitioner failed to submit a properly authenticated transcript of the arbitration proceedings as required by section 9040.10(c)(1) of the rules governing practice before the Commission (50 Ill. Admin. Code 9040.10(c)(1) (2020)) and section 19(b) of the Compensation Act (820 ILCS 305/19(b) (West 2020)). Notice of the Commission’s July 30, 2020, order was issued to the parties via email on August 3, 2020.

¶ 9 On March 22, 2023, respondent filed in the circuit court a motion to dismiss claimant’s request for judicial review, citing a lack of jurisdiction. Respondent argued that claimant failed to

perfect review of the Commission's July 30, 2020, order because he did not initiate review in the circuit court within 20 days of receipt of notice of the Commission's decision as required by section 19(f)(1) of the Compensation Act (820 ILCS 305/19(f)(1) (West 2020)). A hearing on respondent's motion to dismiss was held before the circuit court on May 18, 2023. In a written order issued on May 19, 2023, the circuit court granted respondent's motion to dismiss, citing claimant's failure to strictly comply with section 19(f) of the Compensation Act (820 ILCS 305/19(f) (West 2020)). In the order, the court noted that section 19(f) requires a proceeding for review to be commenced within 20 days of the receipt of the notice of the decision of the Commission. The court observed that the Commission's July 30, 2020, order was issued to the parties on August 3, 2020. Thus, claimant's request for judicial review, which was filed on July 17, 2020, was premature. The court also noted that at no time within the 20 days beginning on August 3, 2020, did claimant initiate a proceeding for review of the Commission's decision. On June 20, 2023, claimant filed a notice of appeal from the circuit court's May 19, 2023, order.

¶ 10

II. ANALYSIS

¶ 11 On appeal, claimant challenges the merits of the ruling on the underlying workers' compensation claim, the Commission's decision granting respondent's motion to strike for failure to file an authenticated transcript of the arbitration proceedings, and the circuit court's May 19, 2023, order, granting respondent's motion to dismiss for failure to timely initiate a proceeding for review of the Commission's decision.

¶ 12 Respondent has filed a motion to strike claimant's brief in its entirety and dismiss the case because claimant's brief was not timely filed. We took the motion with the case. We decline respondent's request to strike and dismiss because this court entered an order allowing claimant to file his brief *instanter*. Alternatively, respondent moves to strike all portions of claimant's brief

except those portions addressing whether the circuit court properly determined that it lacked jurisdiction due to claimant's failure to comply with section 19(f) of the Compensation Act. Respondent's alternative motion is well taken. Here, the only issue addressed by the circuit court was the timeliness of claimant's request for judicial review of the Commission's decision. Thus, the only issue that is properly before us concerns the trial court's jurisdiction to hear claimant's appeal from the Commission's decision. Accordingly, we grant respondent's motion in part and will strike those portions of claimant's brief not addressing the issue of the trial court's jurisdiction.

¶ 13 Turning to the merits, we observe that while Illinois circuit 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); *Sprinkman & Sons Corp. v. Industrial Comm'n*, 160 Ill. App. 3d 599, 601 (1987). Rather, on appeal from a decision of the Commission, the circuit court obtains subject-matter jurisdiction only if the appellant complies with the statutorily-mandated procedures set forth in the Compensation Act or the Diseases Act. See *Springfield Coal Co., LLC v. Illinois Workers' Compensation Comm'n*, 2021 IL App (4th) 150564WC, ¶ 9; *Residential Carpentry, Inc.*, 377 Ill. App. 3d at 502. "[T]o vest the courts with jurisdiction to review Commission decisions, strict compliance with the provisions of the [Compensation] Act is necessary and must affirmatively appear in the record." *Illinois State Treasurer v. Workers' Compensation Comm'n*, 2015 IL 117418, ¶ 15; see also *Wal-Mart Stores, Inc. v. Industrial Comm'n*, 324 Ill. App. 3d 961, 964 (2001) ("Compliance with the 20-day period for initiating an action for judicial review pursuant to section 19(f) is both mandatory and jurisdictional."). We review *de novo* issues involving questions of subject-matter jurisdiction. *Springfield Coal Co., LLC*, 2021 IL App (4th) 150564WC,

¶ 14 Section 19(f)(1) of the Diseases Act provides that “[a] proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission.” 820 ILCS 310/19(f)(1) (West 2020). Claimant insists that he complied with section 19(f)(1) and commenced review in the circuit court within 20 days of the receipt of notice of the decision of the Commission. We disagree. The Commission’s decision granting respondent’s motion to strike claimant’s petition for review was filed on July 30, 2020. The Commission’s decision was emailed to the parties on August 3, 2020. During oral argument before the circuit court, claimant’s attorney acknowledged that he received the Commission’s decision on August 3, 2020. Thus, claimant had until August 23, 2023, to initiate a proceeding for review of the Commission’s decision in the circuit court. It is undisputed that claimant did not file a proceeding for review within 20 days of the receipt of notice of the decision of the Commission. Instead, claimant filed his petition for judicial review on July 17, 2023, well before the date the Commission filed its decision and the parties received it. Thus, the petition seeking review of the Commission’s decision by the circuit court was premature and the circuit court correctly determined that it lacked subject-matter jurisdiction to conduct judicial review. See, e.g., *International Harvester v. Industrial Comm’n*, 71 Ill. 2d 180, 185-88 (1978) (holding that petition for judicial review was premature in that it sought review of a decision of the Commission that was not yet final and appealable where motion seeking to correct Commission’s decision was pending at the time petition for judicial review was filed); *Residential Carpentry*, 377 Ill. App. 3d at 503-04 (holding that circuit court lacked jurisdiction over employer’s petition for judicial review where the employer failed to file an appeal bond within 20-days after the issuance of the Commission’s corrected decision).

¶ 15 Although not cited by either party, we would be remiss in not acknowledging *Sprinkman & Sons Corp.*, 160 Ill. App. 3d 599. In that case, the employee’s widow filed a writ of *certiorari*

for circuit court review 12 days after the Commission issued a “predecision memorandum” but before it issued its official decision. The employer argued that the writ was premature and therefore the circuit court lacked jurisdiction to review the Commission’s ruling. The employee’s widow argued that, because the predecision memorandum was identical to the official decision, she substantially complied with section 19(f)(1) of the Compensation Act (Ill. Rev. Stat. 1983, Ch. 48, par. 138.19(f)(1)). The reviewing court agreed and held that, under the circumstances in that case, substantial compliance was sufficient to vest the trial court with jurisdiction. *Sprinkman & Sons Corp.*, 160 Ill. App. 3d at 602. We find *Sprinkman & Sons Corp.* inapplicable where the July 6, 2020, ruling was merely oral and there is no “predecision memorandum” in the record.

¶ 16 We further observe that even if we held that substantial compliance with section 19(f)(1) was sufficient, we would still affirm the order of the circuit court as claimant failed to comply with another provision of the statute. Section 19(f)(1) of the Diseases Act states, “The Commission shall not be required to certify the record of their proceedings to the Circuit Court, unless the party commencing the proceedings for review in the Circuit Court as above provided, shall file *with the Commission* notice of intent to file for review in the Circuit Court.” (Emphasis added.) 820 ILCS 310/19(f)(1) (West 2020). Additionally, section 19(f)(1) requires that the party seeking review “exhibit to the clerk of the Circuit Court proof of filing with the Commission of the notice of the intent to file for review in the Circuit Court or an affidavit of the attorney setting forth that notice of intent to file for review in [the] Circuit Court has been given in writing to the Secretary or Assistant Secretary of the Commission.” 820 ILCS 310/19(f)(1) (West 2020). Thus, two actions are required: (1) filing a notice of intent with the Commission and (2) exhibiting proof of that filing to the clerk of the circuit court or providing an affidavit by an attorney confirming that a notice of intent was filed with the Commission. These requirements are jurisdictional prerequisites and require

strict compliance. *Vanda v. Illinois Workers' Compensation Comm'n*, 2022 IL App (3d) 210250WC-U, ¶ 18; see also *Conway v. Illinois Workers' Compensation Comm'n*, 2019 IL App (4th) 180285WC, ¶¶ 21-22.

¶ 17 Here, claimant filed a notice of intent to file for review in the Circuit Court with the *circuit court*, not the Commission. Indeed, claimant's attorney admits in his brief to this court that he never filed a notice of intent with the *Commission*. Thus, even if we determined that the premature petition seeking review of the Commission's decision by the circuit court was sufficient to confer jurisdiction on the circuit court, we would be compelled to uphold the circuit court's finding that it lacked jurisdiction because claimant failed to file a notice of intent to file for review with the Commission. See *Vanda*, 2022 IL App (3d) 210250WC-U, ¶ 18. Although this jurisdictional issue was not addressed by the circuit court, we have a duty to consider the circuit court's subject matter jurisdiction and dismiss the appeal if jurisdiction is lacking. *Rojas v. Illinois Workers' Compensation Comm'n*, 406 Ill. App. 3d 965, 970 (2010). Moreover, we may affirm on any basis apparent in the record. *Curet v. C&H Exterior Restorations, Inc.*, 2023 IL App (2d) 230030, ¶ 38; *Will County Forest Preserve District v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110077WC, ¶ 22.

¶ 18 In short, the circuit court properly dismissed claimant's request for judicial review for lack of subject-matter jurisdiction.

¶ 19 **III. CONCLUSION**

¶ 20 For the reasons set forth above, we affirm the order of the circuit court of LaSalle County granting respondent's motion to dismiss claimant's request for judicial review for lack of subject-matter jurisdiction.

¶ 21 Affirmed.