

No. 1-21-1090WC

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).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

LABOR NETWORK CORPORATION,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County
)	
v.)	No. 2020 L 050104
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i> ,)	Honorable
)	Daniel P. Duffy,
(Belen Trujillo, Appellee).)	Judge, Presiding.

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

ORDER

- ¶ 1 *Held:* We affirmed the judgment of the circuit court which dismissed Labor Network Inc.'s action for judicial review of three decisions of the Illinois Workers' Compensation Commission for want of jurisdiction.
- ¶ 2 Labor Network, Inc. appeals from an order of the circuit court which dismissed its action for judicial review of three decisions of the Illinois Workers's Compensation Commission

(Commission) for want of jurisdiction. For the reasons which follow, we affirm the judgement of the circuit court.

¶ 3 The claimant, Belen Trujillo, filed three applications for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)). Each of the applications for adjustment of claim lists "Labor Network, Inc. - loaning employer and Cloverhill Bakery, Inc. - borrowing employer" as the "Employer Respondent." At all times relevant, the claimant was employed by Labor Network Corporation (Labor), an employment agency, and loaned to work as a packer at Clover Hill Bakery, a/k/a Cloverhill Bakery, Inc. (Cloverhill). The injuries for which the claimant sought recovery in each of her three applications for adjustment of claim were sustained while she was working at Cloverhill.

¶ 4 In claim No. 13WC08312, the claimant alleged that, on December 29, 2012, she sustained injuries to her neck, left wrist, left arm, left shoulder, and left hand. Robert L. Smith of the law firm of Gaido & Fintzen filed an appearance in claim No. 13WC08312 as counsel for the respondent. The caption of that appearance lists Labor Network/Cloverhill Bakery as the "Employer/Respondent."

¶ 5 In claim No. 13WC08313, the claimant alleged that she sustained repetitive trauma injuries to her neck, left arm, left shoulder, and left hand, manifesting on March 7, 2013. No appearance for the employer/respondent in case No. 13WC08313 was found in the record.

¶ 6 In claim No. 13WC32552, the claimant alleged that, on September 23, 2013, she sustained injuries to her neck, back, and left hand. Robert L. Smith of the law firm of Gaido & Fintzen filed an appearance in claim No. 13W32552 as counsel for the respondent. The caption of that appearance lists Labor Network, Inc., as the "Employer/Respondent." Clover Hill Bakery is not

referenced in either the caption or body of that appearance.

¶ 7 The three applications for adjustment of claim were consolidated for a hearing pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2016)). Following the consolidated hearing held on February 14, 2018, the arbitrator issued a separate decision in each claim dated April 2, 2018. In the caption of each decision, “Labor Network, Inc., loaning employer and Clover Hill Bakery, borrowing employer” is designated as the “Employer Respondent.”

¶ 8 In her decision in claim No. 13WC08312, the arbitrator found that, on December 29, 2012: the “Respondent” was operating under and subject to the provisions of the Act; an employee-employer relationship existed between the claimant and the “Respondent”; the claimant sustained accidental injuries that arose out of and in the course of her employment; and that a causal connection exists between the claimant’s employment and her left wrist, left shoulder, and neck conditions of ill-being. The arbitrator ordered the “Respondent” to pay the claimant: 166 3/7 weeks of temporary total disability (TTD) benefits under section 8(b) of the Act (820 ILCS 305/8(b) (West 2016)); specified medical expenses; penalties under sections 19(k) and 19(l) of the Act (820 ILCS 305/19(k), 19(l) (West 2016)); and attorney fees under section 16 of the Act (820 ILCS 305/16 (West 2016)). The arbitrator declined to award the claimant prospective medical care in the form of left wrist and left shoulder surgeries as recommended by the claimant’s physician and also denied certain specified medical expenses.

¶ 9 In her decision in claim No. 13WC08313, the arbitrator found that the claimant “established repetitive trauma injuries manifesting on March 7, 2013,” that contributed to her left wrist, left shoulder, and neck conditions of ill-being, and that on that date: the “Respondent” was operating under and subject to the provisions of the Act; and an employee-employer relationship

existed between the claimant and the “Respondent.” The arbitrator declined to award the claimant any benefits under the Act in excess of those benefits awarded to the claimant in the decision in claim No. 13WC08312. The arbitrator also found that the claimant “failed to establish causation as to the need for left wrist and left shoulder surgeries recommended [by her physician].”

¶ 10 In her decision in claim No. 13WC32552, the arbitrator found that, on September 23, 2013: the “Respondent” was operating under and subject to the provisions of the Act; an employee-employer relationship existed between the claimant and the “Respondent”; and the claimant sustained accidental injuries that arose out of and in the course of her employment. Finding that the accident of September 23, 2013 “did not substantially change [the claimant’s] *** already existing left wrist, left shoulder and neck conditions,” the arbitrator declined to award the claimant any benefits under the Act in excess of those benefits awarded to the claimant in the decision in claim No. 13WC08312.

¶ 11 Petitions for review of all three decisions of the arbitrator by the Commission were filed by both the claimant and the “respondent.” The caption of the respondent’s petition lists Belen Trujillo as the Employee/Petitioner and Labor Network as the Employer/Respondent. Clover Hill Bakery, Inc., is not referenced in the respondent’s petition for review. On January 21, 2020, the Commission, with one commissioner dissenting, rendered a separate decision in each claim, affirming and adopting the arbitrators’ decisions. In the caption of each of those decisions, “Labor Network, Inc., Loaning Employer and Cloverhill Bakery, Inc., Borrowing Employer” is designated as the “Respondent.”

¶ 12 On February 11, 2020, a Notice of Intent to File Review in the Circuit Court (Notice of Intent) was filed with the Clerk of the Circuit Court of Cook County (the clerk). The caption of

that document lists Belen Trujillo as the Employee/Petitioner and Labor Network, Inc. as the Employer/Respondent. All three of the Commission's decisions are referenced in the caption. The document indicates that it was prepared by Robert L. Smith from the law firm of Gaido & Fintzen, LLC, as attorney for the respondent. Clover Hill Bakery, Inc. is not referenced in the Notice of Intent. On that same date, Robert L. Smith, as attorney for Labor Network, Inc., filed with the clerk a written request for the issuance of summons, identifying: Labor Network, Inc. as a party in interest and Robert L. Smith of the law firm of Gaido & Fintzen as attorney of record; and Belen Trujillo as a party in interest and Alexandra Broderick of the law firm of Steven B. Salk & Associates, Ltd., as attorney of record. The caption of that document lists Labor Network, Inc., as the plaintiff and the Commission and Belen Trujillo as the defendants. Clover Hill Bakery, Inc., is not referenced in the request for issuance of summons. That same date, the clerk issued one summons addressed to the Commission and one summons addressed to Belen Trujillo as the respondent and Alexandra Broderick/Steven B. Salk & Associates, Ltd., as attorney for respondent. The captions of both summonses list Labor Network, Inc., as the plaintiff and the Commission and Belen Trujillo as the defendants. The summonses indicate that they were prepared by Robert L. Smith as attorney for Labor Network, Inc. Clover Hill Bakery, Inc., is not referenced in either summons. Also on that same date, the clerk executed a Certificate of Mailing which states that a copy of the summons was mailed to the Commission and to the following parties and attorneys: parties in interest, Belen Trujillo and Labor Network, Inc; and the attorneys of record, Alexandra Broderick at Steven B. Salk & Associates, Ltd., and Robert L. Smith at Gaido & Fintzen, LLC. The caption on the Certificate of Mailing lists Labor Network, Inc., as the plaintiff and the Commission and Belen Trujillo as the defendants. Clover Hill Bakery, Inc., is not

referenced in the Certificate of Mailing.

¶ 13 The claimant filed a motion to dismiss the judicial review action, arguing that the circuit court lacked jurisdiction over the matter by reason of Labor's failure to name Clover Hill Bakery, Inc., as a defendant and request summons to issue against it in the manner provided in section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2018)). On August 13, 2021, the circuit court granted the claimant's motion to dismiss, and this appeal followed.

¶ 14 In urging reversal of the circuit court's dismissal of its judicial review action on jurisdictional grounds, Labor argues that it substantially complied the requirements of the Act in filing its action for judicial review. We disagree.

¶ 15 Although circuit courts are courts of general jurisdiction and enjoy a presumption of subject matter jurisdiction, such a presumption is not available in workers' compensation proceedings, where the court exercises special statutory jurisdiction, and strict compliance with the provisions of the Act is required to vest the court with subject matter jurisdiction. *Gruszczyńska v. Illinois Workers' Compensation Comm'n*, 2013 IL 114212, ¶ 13. 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) of the Act, are jurisdictional requirements that must be strictly complied with in order to vest the circuit court with jurisdiction. *Id.*; *Jones v. Industrial Comm'n*, 188 Ill.2d 314, 320 (1999).

¶ 16 Section 19(f)(1) of the Act, which deals with judicial review of the Commission's decisions, provides, in relevant part, as follows:

“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. Service upon any member of the Commission or the Secretary or the Assistant Secretary thereof shall be service upon the Commission, and service upon other parties in interest and their attorneys of record shall be by summons, and such service shall be made upon the Commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the summons to the office of the Commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the summons shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the summons to the office of the Commission, and a copy of the summons to the other parties in interest or their attorney or attorneys of record and the clerk of the court shall make certificate that he has so sent said notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.” 820 ILCS 305/19(f)(1) (West 2018).

¶ 17 Section 1(a)(4) of the Act provides that, where an employer operating under and subject to the provisions of the Act loans an employee to another such employer and such loaned employee sustains a compensable accidental injury in the employment of such borrowing employer, “the liability of such loaning and borrowing employers is joint and several.” 820 ILCS 305/1(a)(4) (West 2018). In this case, it is undisputed that Labor was a loaning employer, Cloverhill was a borrowing employer, and the claimant was a loaned employee who is alleged to have sustained compensable injuries while working for Cloverhill. Consequently, Labor and Cloverhill would be

jointly and severable liable for any benefits due the claimant pursuant to the Act. It follows, therefore, that Cloverhill was a party in interest in the judicial review action filed by Labor.

¶ 18 Compliance with section 19(f)(1) of the Act requires that “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.*” (Emphasis added.) 820 ILCS 305/19(f)(1) (West 2018).

¶ 19 Labor admits that it failed to name Cloverhill as a party in interest in the caption or body of its request for the issuance of summons but argues that it substantially complied with the requirements of section 19(f)(1) of the Act by listing Gaido & Fintzen in the request for issuance of summons under the heading of Attorney of Record as that law firm had represented Cloverhill at the arbitration hearing. Labor also notes that the Certificate of Mailing executed by the clerk states that a copy of the summons was mailed to the law firm of Gaido & Fintzen. Labor contends that the facts of this case are analogous to the facts present in *Old Ben Coal Company v. Industrial Comm’n*, 217 Ill. App. 3d 70 (1991), where this court found that the employer had substantially complied with section 19(f)(1) of the Act, vesting the circuit court with subject-matter jurisdiction over the employer’s judicial review action. *Id.* at 76.

¶ 20 In *Old Ben Coal Company*, the employer sought judicial review of a decision of the Commission awarding benefits to the claimant, Clifford Frye. *Id.* at 72. The employer’s written request for the issuance of summons did not designate Frye as a party in interest or list his last known address. *Id.* at 73. Frye was, however, listed in the caption of the document as a defendant and his name appeared twice in the body of the request for summons. *Id.* In addition, the

employer's request for summons stated: "Please issue a summons directed to Harold B. Culley, Jr. and Wayne R. Reynolds, Attorneys for Clifford Frye, returnable on January 16, 1990." *Id.* In holding that the employer substantially complied with the requirements of section 19(f)(1) of the Act so as to vest the circuit court with subject matter jurisdiction, this court found that the employer's request for the issuance of summons, although incomplete, provided sufficient information for the clerk to properly notify the claimant and his attorneys of the pendency of the action. *Id.* at 76. It was also noted that the claimant had not shown prejudice resulting from the employer's omissions. *Id.*

¶ 21 In the instant case, like the facts present in *Old Ben Coal Company*, Cloverhill was not designated as a party in interest in Labor's written request for the issuance of summons and its last known address was not listed in the document. Unlike the facts present in *Old Ben Coal Company*, Cloverhill was not listed as a defendant in the caption of Labor's request for the issuance of summons, its name or address do not appear in the body of the document, and the law firm of Gaido & Fintzen is not identified as Cloverhill's attorney. Although the clerk's certificate of mailing states that a copy of the summons was mailed to the law firm of Gaido & Fintzen, it is clear from the document that the summons was mailed to Gaido & Fintzen as Labor's attorneys, not Cloverhill's attorneys. Unlike the facts present in *Old Ben Coal Company*, Labor's request for the issuance of summons did not provide any information from which the clerk could notify Cloverhill of the pendency of the action.

¶ 22 As stated earlier, section 19(f)(1) of the Act provides that the written request for summons "shall contain the last known address of all of the parties in interest and their attorneys of record who are to be served with summons." Labor's written request for the issuance of summons did

not list Cloverhill as a party in interest, did not set forth Cloverhill's last known address, and did not identify law firm of Gaido & Fintzen as Cloverhill's attorney. Only two summons are contained in the record. One is addressed to the Commission and one is addressed to Belen Tryujillo. There is no summons addressed to Cloverhill.

¶ 23 The timely filing of a written request for the issuance of summons made in compliance with the provisions of section 19(f)(1) of the Act is a jurisdictional requirement that must be strictly adhered to in order to vest the circuit court with subject-matter jurisdiction over an action for judicial review of a decision of the Commission. See *Jones v. Industrial Comm'n*, 188 Ill. 2d 314, 320 (1999). Based upon the foregoing analysis, we find that Labor failed to file a timely written request for the issuance of summons addressed to Cloverhill, a party in interest, and no such summons was ever issued. The failure of Labor to strictly comply with the provisions of section 19(f)(1) of the Act deprived the circuit court of subject matter jurisdiction. See *Gruszczyka*, 2013 IL 114212, ¶ 13. We conclude, therefore, that the circuit court correctly dismissed Labor's judicial review action for want of jurisdiction.

¶ 24 For the reasons stated, we affirm the judgment of the circuit court which dismissed Labor's judicial review action for want of jurisdiction.

¶ 25 Affirmed.