

2022 IL App (3d) 210250WC-U
No. 3-21-0250WC
Order filed June 24, 2022

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

DONALD VANDA,)	Appeal from the Circuit Court
)	of La Salle County.
Plaintiff-Appellant,)	
)	
v.)	No. 20-MR-293
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i>)	
)	Honorable
(Streator Dependable Manufacturing, Inc., n/k/a)	Christina M. Cantlin,
PHW Holdings, Inc., Defendant-Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* Where claimant sought review of decision of Illinois Workers' Compensation Commission but failed to file notice of intent to file for review with Commission, circuit court lacked subject-matter jurisdiction and properly dismissed claimant's action. Circuit court affirmed.

¶ 2 I. INTRODUCTION

¶ 3 Claimant, Donald Vanda, appeals the judgment of the circuit court of La Salle County dismissing his action for review of the decision of the Illinois Workers' Compensation Commission (Commission) denying his claim for benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)). Thus, the primary issue before us is whether the circuit court's dismissal was appropriate. Before we address that issue, however, we must first address the contention of respondent, Streator Dependable Manufacturing, Inc. (n/k/a PHW Holdings Inc.) that we lack jurisdiction over this appeal. For the reasons that follow, we determine that we have jurisdiction over this appeal and we affirm the circuit court's judgment.

¶ 4 II. BACKGROUND

¶ 5 Claimant filed an action seeking to recover benefits under the Act from respondent for injuries allegedly arising out of and occurring in the course of his employment, specifically repetitive trauma injuries to his right hand and shoulder. The arbitrator found that claimant had failed to prove he sustained such injuries. The Commission affirmed and adopted the decision of the arbitrator in its entirety. Claimant sought review in the circuit court of La Salle County.

¶ 6 The circuit court dismissed claimant's petition for review, citing lack of subject-matter jurisdiction. It noted that strict compliance with the Act is necessary to vest the court with subject-matter jurisdiction. See *Illinois State Treasurer v. Illinois Workers' Compensation Comm'n*, 2015 IL 117418, ¶ 15. The Act requires, *inter alia*, that the party seeking review file a notice of intent to file for review with the Commission. 820 ILCS 305/19(f)(1) (West 2020). It further requires that the party file with the circuit court proof that the notice was filed with the Commission or an affidavit of an 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." *Id.* The circuit court found that claimant had failed to comply with these procedures: "[I]n this case, no notice of

intent was filed with the Workers' Compensation Commission. [Also, t]here was no affidavit by an attorney that indicated proof of that filing or that there was proof in the file to the clerk [of the circuit court].” Accordingly, the court dismissed claimant’s action.

¶ 7 Claimant sought review in this court. Claimant filed a notice of appeal and an amended notice of appeal. Both simply identify the circuit court’s order dismissing claimant’s action for review as the order from which claimant was appealing. Both state that they were served on the Secretary of the Commission. Curiously, claimant’s opening brief is not directed against the circuit court’s order of dismissal; rather, the entire brief is directed against the Commission’s order denying claimant’s request for benefits under the Act. The circuit court’s ruling is barely mentioned, save for a brief reference in the statement of jurisdiction where the nature of the dismissal is not identified. Respondent’s brief is entirely devoted to defending the circuit court’s order; claimant finally addresses the dismissal in his reply brief. We now turn to the substance of this appeal.

¶ 8 III. ANALYSIS

¶ 9 We are presented with two jurisdictional issues in this appeal. First, we must consider respondent’s arguments that that we lack jurisdiction over this appeal. Respondent advances two reasons: (1) respondent contends that claimant’s failure to set forth a prayer for relief in either notice of appeal deprives this court of jurisdiction and (2) claimant’s failure to identify any order other than the circuit court’s order dismissing claimant’s action limits our jurisdiction to only that order. Second, if we determine we have jurisdiction, we must consider the propriety of the circuit court’s order dismissing claimant’s action for want of subject-matter jurisdiction.

¶ 10 A. APPELLATE JURISDICTION

¶ 11 We first turn to the question of our jurisdiction. Respondent initially contends that claimant's failure to include a prayer for relief in either notice of appeal renders us without jurisdiction. Respondent acknowledges that deficiencies of form in a notice of appeal, rather than substance, typically do not deprive a reviewing court of jurisdiction. *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 434 (1979). Generally, the failure to include a prayer for relief is a defect of form. *Maywood-Proviso State Bank v. Village of Lisle*, 234 Ill. App. 3d 206, 215 (1992). Only where such defects prejudice the appellee in some way is the reviewing court deprived of jurisdiction. *Id.* at 215-16.

¶ 12 Respondent contends that it was prejudiced by claimant's omission in that "the fundamental differences between the issues raised by [claimant's] Notice(s) and those raised in his brief" left respondent "to wonder to what issues it must respond." In *People v. Smith*, 228 Ill. 2d 95, 103 (2008), the defendant appealed a trial court's denial of his motion to correct his sentence, but he listed only the trial court's judgment of conviction in his notice of appeal. Our supreme court held that no matter how liberally the notice of appeal was construed, it could not fairly be read to encompass the denial of the motion to correct sentence. *Id.* at 105. Because claimant's opening brief is directed against the Commission's order, respondent argues that the identification of the circuit court's order of dismissal in the notices of appeal deprives us of jurisdiction. We agree to the extent that claimant seeks to appeal the Commission's decision at this time. However, the notice of appeal places the order of dismissal squarely before us. Claimant's failure to address the issue concerning the circuit court's dismissal in his opening brief arguably would result in forfeiture of that issue. *Cain v. Joe Contarino, Inc.*, 2014 IL App (2d) 130482, ¶ 115 (citing Illinois Supreme Court Rule 431(f)(7) (eff. Feb. 6, 2013)). However, this omission does not deprive us of jurisdiction over the actual order listed in the notices of appeal.

¶ 13 Respondent also argues that our jurisdiction is limited to the order of dismissal as that is the only order identified in claimant’s notice of appeal. We agree (see *Smith*, 228 Ill. 2d at 104 (“Illinois courts have held that a notice of appeal confers jurisdiction on a court of review to consider only the judgments or parts thereof specified in the notice of appeal.”)); however, given our resolution of the first issue as set forth above, we need not consider this point any further.

¶ 14 B. THE CIRCUIT COURT’S JURISDICTION

¶ 15 We now turn to the substance of the circuit court’s ruling concerning its own subject-matter jurisdiction. Though Illinois trial courts typically exercise general jurisdiction and enjoy a presumption of subject-matter jurisdiction, this is not the case concerning review of administrative proceedings. *Illinois State Treasurer*, 2015 IL 117418, ¶ 14. Illinois courts may review administrative proceedings “only ‘as prescribed by law.’ ” *Id.* (citing Ill. Const. 1970, art. VI, § 6 (appellate court), § 9 (trial court)). Therefore, courts review administrative proceedings as provided for by the legislature. *Id.* That is, they exercise “special statutory jurisdiction.” *People ex rel. Madigan v. Illinois Commerce Comm’n*, 2014 IL 116642, ¶ 10. Special statutory jurisdiction is defined by the legislative enactment conferring it, and a court has no power arising from any other source. *Illinois State Treasurer*, 2015 IL 117418, ¶ 14. Thus, a party seeking to invoke such jurisdiction must strictly comply with the procedures set forth by the legislature. *Id.*

¶ 16 Section 19(f) of the Act sets forth the procedures for reviewing a decision of the Commission. 820 ILCS 305/19(f) (West 2020). In relevant part, subsection 19(f)(1) of the 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 Circuit Court.” (Emphasis added.) 820 ILCS 305/19(f)(1) (West 2020). Additionally, this section 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.” (Emphasis added.) *Id.* Thus, two actions are required: (1) filing a notice of intent with the Commission and (2) the exhibition of proof of that filing to the clerk of the circuit court or the filing of an affidavit by an attorney confirming that notice was filed in the Commission. Claimant complied with neither requirement.

¶ 17 In *Conway v. Illinois Workers’ Compensation Comm’n*, 2019 IL App (4th) 180285WC, ¶ 21, we construed the portion of subsection 19(f)(1) that required a party to file with the circuit court either proof that a notice of intent was filed with the Commission or an affidavit by an attorney averring that notice of intent had been filed with the Commission. We reviewed other cases holding that other provisions of subsection 19(f)(1) were, in fact, jurisdictional prerequisites. *Id.* ¶¶ 17-20 (see *Esquivel v. Illinois Workers’ Compensation Comm’n*, 402 Ill. App. 3d 156 (2010); *Rojas v. Illinois Workers’ Compensation Comm’n*, 406 Ill. App. 3d 965 (2010); *Gruszczka v. Illinois Workers’ Compensation Comm’n*, 2013 IL 114212)). We explained, “Following these previous interpretations of section 19(f)(1), we conclude that the newest amendment requires the petitioner to exhibit 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 within 20 days of receiving the Commission’s decision.” *Id.* ¶ 21.

¶ 18 In the instant case, claimant did not file a notice of intent with the Commission. Initially, we must consider whether filing a notice of intent with the Commission is a jurisdictional prerequisite. Like the provisions at issue in *Conway*, the requirement that the party seeking review file a notice of intent with the Commission appears in subsection 19(f)(1). We can conceive of no

reason to treat these two similar requirements differently for the purpose of invoking the jurisdiction of the circuit court. As these requirement must be complied with strictly (*Illinois State Treasurer*, 2015 IL 117418, ¶ 14), the circuit court correctly determined that it lacked jurisdiction in this case.

¶ 19 Claimant contends that it should be sufficient that it actually served a notice of appeal on the secretary of the Commission. A similar argument was rejected in *Esquivel*, 402 Ill. App. 3d 156. In that case, the court considered a provision in subsection 19(f)(1) requiring a party to “exhibit to the clerk of the circuit court within the same time frame either a receipt showing payment of the probable cost of the record on appeal or an affidavit of an attorney setting forth that such payment has been made to the Commission.” *Id.* at 160. The appellant in that case did not provide a receipt, and he did not file his affidavit until after the 20-day period for perfecting an appeal had expired. *Id.* In the affidavit, the claimant’s attorney averred that payment had, in fact, been made during the statutory period, and the affidavit was accompanied by a copy of a check. *Id.* at 158. Irrespective of evidence of actual payment, we held that the claimant’s failure to provide appropriate documentation to the clerk of the circuit court as specified in the statute deprived the circuit court of jurisdiction. *Id.* at 163. We explained, “In short, we find no proof in the record indicating that claimant exhibited to the clerk of the circuit court within 20 days after receiving the Commission’s decision any documentation showing proof of payment of the probable cost of the record on appeal, and there is no evidence that the clerk of the circuit court was otherwise satisfied that the probable cost of the record had been paid prior to the issuance of the summonses.” *Id.* The provision requiring notice to the circuit clerk exists to allow the clerk to verify that the appropriate payment had been made. *Id.* at 162-63.

¶ 20 The same reasoning applies here. Serving the notice of appeal on the secretary of the Commission may have provided the Commission with notice of the appeal. However, subsection 19(f)(1), in addition to mandating notice to the Commission, requires that the circuit court be informed that such notice was provided to the Commission:

“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 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 305/19(f)(1) (West 2020).

Thus, the statute provides a mechanism for the circuit court to ensure that the Commission had been given notice of claimant’s intent to appeal. Claimant’s notice of appeal was not an adequate substitute that would have allowed the circuit court to verify that the Commission had received the required notice. Thus, even if claimant’s notice of appeal was an adequate substitute for the filing of a notice of intent with the Commission, it did not provide the circuit court with verification that the Commission had received notice, as required by the legislature in subsection 19(f)(1).

¶ 21 Claimant asserts that it filed the required documents with the circuit court and asked that they be forwarded to the Commission. Claimant cites nothing that would allow him to shift this burden to the circuit court, and he further does not explain why he simply did not file the required notice of intent with the Commission himself. We note that subsection 19(f)(1) states that “the *party commencing the proceedings * * * shall file with the Commission* notice of intent to file for review in the Circuit Court.” (Emphasis added.) 820 ILCS 305/19(1)(f) (West 2020). Moreover, as claimant acknowledges, this request accompanied a request for summons to issue. Claimant

argues that there is no requirement set forth in the statute that the Commission be notified before summons issues. Claimant points out that the word “before” does not appear in the statutory language. See 820 ILCS 305/19(f)(1) (West 2020). However, the statute does plainly state that no summons shall issue until the party seeking review provides evidence to the circuit court that he or she had filed a notice of intent with the Commission. Obviously, one cannot provide evidence for something one has not yet accomplished. Clearly, the notice of intent had to be filed with the Commission *before* summons issued.

¶ 22 In sum, we conclude that the circuit court properly dismissed claimant’s action for lack of subject-matter jurisdiction.

¶ 23 IV. CONCLUSION

¶ 24 In light of the foregoing, the order of the circuit court of La Salle County dismissing claimant’s request for judicial review is affirmed.

¶ 25 Affirmed.