2016 IL App (1st) 151341-U

FIFTH DIVISION
June 30, 2016

No. 1-15-1341

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

JAE RYONG RYOU,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 14 L 11806
	)	
JAE WOONG YOON d/b/a MR. ANTHONY	)	
CLEANERS,	)	Honorable
	)	James E. Snyder,
Defendant-Appellee.	)	Judge Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Gordon and Lampkin concurred in the judgment.

ORDER

Held: The circuit court's judgment is affirmed where the plaintiff's overtime wage claim was resolved in an Illinois Department of Labor proceeding against the employer.

¶ 1 Plaintiff Jae Ryong Ryou filed a complaint in the circuit court to recover overtime wages allegedly owed to him by defendant Jae Woong Yoon. The circuit court granted Yoon's motion to dismiss under section 2-619 of the Illinois Code of Civil Procedure (the Code) (735 ILCS 5/2-

619 (West 2014)), and dismissed Ryou's complaint. Ryou appeals the dismissal. For the following reasons, we affirm.

¶ 2 I. BACKGROUND

¶ 3 On November 14, 2014, Ryou brought a two-count complaint alleging that Yoon failed to pay Ryou's overtime wages earned while employed at the dry cleaning and laundry business owned by Yoon, Mr. Anthony's Cleaners (Cleaners), between July 1, 2010, and October 18, 2013. Ryou alleged that he usually worked 66 hours per week but he was never paid overtime wages at a rate of 1 ½ times his regular rate. Ryou alleged that he was fired on October 23, 2013. Count one of his complaint set forth his federal law claim that he was entitled to overtime compensation under section 207 of the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. § 201 *et seq.*) for hours he worked in excess of 40 hours in a week. In count two, Ryou similarly alleged he was entitled to overtime compensation under the Illinois Minimum Wage Law (IMWL) (820 ILCS 105/1 *et seq.* (West 2014)). Ryou sought overtime wages in excess of $60,000.

¶ 4 Yoon filed an appearance and a motion to dismiss Ryou's complaint pursuant to sections 2-619(a)(6) and (9) of the Code, arguing that Ryou's claim had been satisfied of record based on a settlement agreement between the Illinois Department of Labor (IDOL) and Yoon concerning the unpaid overtime wages. Yoon asserted that, before instituting the instant lawsuit, Ryou filed a complaint with the IDOL for the unpaid overtime wages and assigned his overtime wage claim to the IDOL. The IDOL investigated and conducted a payroll audit for all Yoon's employees who worked between January 2011 to December 2013. Yoon alleged that the IDOL determined that Yoon owed five former and current employees, including Ryou, unpaid overtime wages totaling $13,066.74. Yoon disputed this determination, and the IDOL and Yoon entered into a settlement

agreement on August 26, 2014, wherein Yoon paid $10,000 for the unpaid overtime wages in ten monthly installments of $1,000, starting on September 15, 2014, and continuing until the last payment was due on June 15, 2015. Yoon alleged that he remitted the monthly installments to the IDOL, which disbursed the funds to the employees according to the settlement agreement. Under the settlement agreement, Ryou was to receive $394.54 per month for ten months, for a total of $3,965.40. Under the settlement, upon full payment of the settlement amount, Yoon would be released from unpaid overtime wage claims in the IDOL complaint. Yoon argued that his company was making the monthly payments and provided copies of the checks. As a result, Yoon contended that Ryou's claim was moot because his claim was resolved and settled and he already received the remedies sought in his complaint.

¶ 5 Yoon attached a copy of the settlement agreement to his motion to dismiss. The agreement, dated August 26, 2014, indicates that it was entered into by Cleaners and the IDOL and arose under the IMWL. It states that the IDOL investigation into File No. 13-A00948 determined that Cleaners owed its employees wages in the amount of $13,066.74. Further, it recites that, in settlement of the dispute, the parties agreed that Cleaners would pay $10,000 to the employees and a $500 records keeping penalty, without admission of liability. Attached to the settlement agreement was an exhibit indicating the amounts to be paid to each employee, including Ryou. Cleaners was required to issue the checks with the payee listed as "Employee's Name or Illinois Department of Labor." The settlement agreement specifically provided that upon full payment, the IDOL would release Cleaners from the claims set forth in File No. 13-A00948. The agreement was signed by a representative of the IDOL and by Yoon on behalf of Cleaners. The agreement also included exhibit 1, which is a list of the five employees, including Ryou, and the amounts owed to each. Ryou was designated to receive ten payments of $396.54.

Yoon also attached to his motion copies of the checks remitted by Yoon to the employees, including one check to "JAE R RYOU OR IL DEPT OF LABOR" in the amount of $302.37, dated October 14, 2014. The "memo" line contains the notation "FILE # 13-A00948."

¶ 6 Ryou filed a response to the motion to dismiss arguing that whether the IDOL took an assignment of his claim was a factual question that must be resolved at trial and only the IDOL and Yoon were parties to the settlement. Ryou argued that although he was represented by counsel during the IDOL investigation, he was not contacted by the IDOL before the settlement agreement was reached. He first heard of it when he received a letter from the IDOL dated September 14, 2014, with a check for $302.37. Ryou disagreed that his claim had been satisfied or was moot because his complaint also alleged a violation of the FLSA and he was never contacted before the settlement. Ryou attached his affidavit to his response, wherein he averred that he was never contacted by the IDOL regarding the settlement and he found out about the settlement when he received the letter from the IDOL. Ryou averred that he did not accept or deposit any of the checks, except for the first check, and that he would not have settled for the amount he was sent. Ryou also attached copies of letters his attorney sent to the IDOL requesting to view the investigation file in Case No. 13-A00948. The letter states that the attorney represents "Ryou, the COMPLAINANT EMPLOYEE in the above referenced matter," which is "Case No.: 13-A00948."

¶ 7 In Yoon's reply, he asserted that to recover unpaid overtime wages under IMWL, the employee may bring a civil action or request the IDOL to make an assignment of his claim and pursue the claim. Yoon argued that in order to do the latter, the employee must file a complaint with the IDOL by submitting an application form, authorizing the IDOL to receive any money from the employer. Citing the letters sent from Ryou's counsel to the IDOL requesting

information about the case, Yoon argued that Ryou's correspondence with the IDOL showed that he filed such a complaint. Yoon asserted that the IDOL took assignment of Ryou's claim in trust pursuant to section 12(a) of the IMWL, investigated the matter, and concluded that $13,066.74 was owed in unpaid overtime wages. Yoon argued that the IDOL investigation was initiated at Ryou's request and Ryou was not required to be involved in any investigation or settlement. Yoon argued that he made the monthly payments according to the settlement agreement and Ryou's overtime wage claim in the instant case was satisfied of record. In addition, Yoon argued that Ryou's claims, including his claim based on federal law, were moot because he has already recovered the unpaid overtime wages and secured the remedies he sought in the civil lawsuit. Yoon attached a copy of a letter from the IDOL to Cleaners dated March 3, 2014, which states that the IDOL received a complaint, Case No. 13-A00948, and would be conducting an investigation, which included an audit of all time and payroll records between January 2011 and December 2013.

¶ 8 Following a hearing, the circuit court granted Yoon's motion to dismiss and dismissed Ryou's complaint in its entirety on April 17, 2015. Ryou filed a timely notice of appeal.

¶ 9 II. ANALYSIS

¶ 10 "The purpose of a section 2-619 motion to dismiss is to dispose of issues of law and easily proved issues of fact at the outset of litigation." *Van Meter v. Darien Park District*, 207 Ill. 2d 359, 367 (2003). The moving party "admits the legal sufficiency of the complaint, but asserts an affirmative defense or other matter to defeat the plaintiff's claim." *Id.* The court views the pleadings and any supporting documentary evidence " 'in the light most favorable to the nonmoving party.' " *Id.* at 367-68 (quoting *In re Chicago Flood Litigation*, 176 Ill. 2d 179, 189 (1997)). This court reviews *de novo* a dismissal under section 2-619 of the Code. *Id.* at 368.

Moreover, "we may affirm on any basis supported by the record, regardless of whether the trial court based its decision on the proper ground." *In re Marriage of Gary*, 384 Ill. App. 3d 979, 987 (2008).

¶ 11 As is relevant here, the motion to dismiss was brought under subsections (a)(6) and (9) of section 2-619. Section 2-619(a)(6) "allows for the involuntary dismissal of a claim when 'the claim set forth in the plaintiff's pleading has been released' " or satisfied of record. *Badette v. Rodriguez*, 2014 IL App (1st) 133004, ¶ 16 (quoting 735 ILCS 5/2–619(a)(6) (West 2012)). Section 2-619(a)(9) provides for dismissal "on the ground that a claim asserted is barred by other affirmative matter avoiding the legal effect of or defeating the claim." (Internal quotation marks omitted.) *Holubek v. City of Chicago*, 146 Ill. App. 3d 815, 817 (1986). An "affirmative matter" is "something in the nature of a defense that negates the alleged cause of action completely or refutes a crucial conclusion of material fact unsupported by allegations of specific fact contained in or inferred from the complaint." *Id.* "If a defendant satisfies its initial burden of presenting affirmative matter defeating a plaintiff's complaint, the burden then shifts to the plaintiff to show that the asserted defense is unfounded or leaves unresolved issues of material fact as to an essential element." *Badette v. Rodriguez*, 2014 IL App (1st) 133004, ¶ 16.

¶ 12 Additionally, this case involves the construction of statutory language, which we review *de novo*. *People v. Perez*, 2014 IL 115927, ¶ 9. In construing statutory language, this court's "primary objective is to ascertain and give effect to the legislature's intent, keeping in mind that the best and most reliable indicator of that intent is the statutory language itself, given its plain and ordinary meaning." *Id.* We consider a statute as a whole and construe its language in light of other statutory provisions. *Id.* We give each word and phrase a reasonable meaning in order to avoid rendering any part superfluous. *Id*. In so doing, we "may consider the reason for the law,

the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another." *Id*. We also presume that the General Assembly "did not intend absurdity, inconvenience, or injustice." *Id.*

¶ 13 A. Timeliness of Defendant's Section 2-619 Motion to Dismiss

¶ 14 For the first time on appeal, Ryou asserts that Yoon's motion to dismiss was untimely filed and the circuit court therefore erred in granting the motion and dismissing Ryou's complaint. Yoon counters that this issue has been forfeited on appeal because Ryou failed to raise it in the circuit court.

¶ 15 "It is well settled in Illinois that 'issues not raised in the trial court are deemed waived [forfeited] and may not be raised for the first time on appeal.' " *Pinske v. Allstate Prop. & Casualty Insurance Co*., 2015 IL App (1st) 150537, ¶ 18 (quoting *Haudrich v. Howmedica, Inc.*, 169 Ill. 2d 525, 536 (1996)). " '[F]orfeiture' means 'the failure to make the timely assertion of the right.' " *Id.* (quoting *People v. Blair,* 215 Ill.2d 427, 444 n. 2 (2005).

¶ 16 On appeal, Ryou does not dispute that he failed to present his timeliness argument in the circuit court. We find no references to this argument in our review of the lower court record. As a result, this argument has been forfeited on appeal. *Pinske,* 2015 IL App (1st) 150537, ¶ 18.

¶ 17 Nevertheless, Ryou urges this court to address the timeliness argument because "waiver and forfeiture rules serve as an admonition to litigants rather than a limitation upon the jurisdiction of the reviewing court, and courts of review may sometimes override considerations of waiver and forfeiture in order to achieve a just result and maintain a sound and uniform body of precedent." *Pinske*, 2015 IL App (1st) 150537, ¶ 19.

¶ 18 Under the circumstances presented here, we decline to overlook Ryou's failure to assert the timeliness issue in the circuit court. Generally, a motion under section 2-619 of the Code

must be filed within the time for pleading in order to be timely. *American Service Insurance Co. v. City of Chicago*, 404 Ill. App. 3d 769, 777 (2010). Here, the circuit court ordered Yoon to file an appearance by January 13, 2015, and to file an answer or otherwise plead by January 27, 2015. On January 30, 2015, Yoon filed an appearance and the motion to dismiss. Yoon argues on appeal that, although not in the lower court record, Yoon's counsel had a conversation with Ryou's counsel, who stated that she had no objection to Yoon's counsel filing the motion to dismiss by January 30, 2015. Ryou takes issue with Yoon's reference to matters outside the record. However, this simply illustrates why forfeiture is appropriate in this case; had Ryou asserted in the circuit court that Yoon's motion was untimely, the issue could have been addressed at that time and a record made for this court to review. Thus, on appeal, we need not address Ryou's timeliness argument in order to achieve a just result in this case. *Pinske*, 2015 IL App (1st) 150537, ¶ 19.

¶ 19 B. The Merits of Defendant's Section 2-619 Motion to Dismiss

¶ 20 Ryou asserts that genuine issues of fact exist regarding whether he was bound by the settlement agreement because he was not consulted or notified of it and he was not a party to it. He contends that he can still pursue his claim of unpaid overtime wages under the FLSA and the IMWL.

¶ 21 Yoon argues that the trial court properly granted his motion to dismiss because Ryou elected to file a complaint with the IDOL instead of pursuing his own civil action under the IMWL. Yoon contends that the undisputed facts showed that Ryou made an assignment of his unpaid overtime wage claim to the IDOL when he filed a complaint with the IDOL and the IDOL investigated and collected on the claim. Yoon asserts that the IDOL informed Ryou of the

settlement, Ryou could have filed a petition to present further evidence or dispute the IDOL's findings but did not do so, and he instead deposited the first settlement check.

¶ 22 On appeal, Ryou relies primarily on *Gray v. National Restoration Systems, Inc.*, 354 Ill. App. 3d 345 (2004), and argues that his case is similar to *Gray*. In *Gray*, the widow of an employee brought wrongful death, survival, and family expense actions against several defendants as a result of her husband's death in a workplace explosion. *Id.* at 347-48. The trial court granted the defendant contractor National Restoration's motion to dismiss pursuant to section 2-619 of the Code based on a settlement entered into between the widow and "National Restoration Systems, Inc., a/k/a National Resurfacing, Inc." regarding her worker's compensation claim arising out of the explosion. *Id.* at 352. On appeal, this court reversed, finding that a question of fact existed as to whether National Restoration Systems or National Resurfacing was the decedent's immediate employer at the time of death. *Id.* at 355-56. Although National Restoration Systems had paid the worker's compensation claim, it would only receive immunity from further litigation under the Workers' Compensation Act if it was the decedent's immediate employer. *Id.* at 355. The court also held that the settlement agreement the widow signed only settled the worker's compensation claim, and nothing more, and therefore did not preclude her from pursuing further relief allowed under a common law negligence theory. *Id.* at 356.

¶ 23 We do not find *Gray* applicable to the present case. Resolution of the issues in *Gray* turned on interpretation of provisions of the Workers' Compensation Act, which is not at issue here. Also, there is no dispute about whether Ryou was an employee here. In further contrast, there was no claim made in *Gray* that the widow could not be bound by the worker's compensation settlement because she was not consulted about it or did not know of it.

¶ 24 Turning to provisions of the IMWL, we find that the circuit court properly dismissed Ryou's complaint based on the IDOL proceedings and settlement. Section 4a(1) prohibits an employer from employing an employee "for a workweek of more than 40 hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than 1 1/2 times the regular rate at which he is employed." 820 ILCS 105/4a (West 2014). Section 12 provides for an employee to pursue an unpaid wage claim by filing a civil action or having the IDOL pursue the claim. 820 ILCS 105/12(a) (West 2014). Moreover, "[a] violation of the Illinois Minimum Wage Law is contingent on establishing a violation under" the FLSA, which similarly provides for a standard 40-hour workweek and requires employers pay overtime wages of 1 ½ their regular rate. *Resurrection Home Health Services v. Shannon*, 2013 IL App (1st) 111605, ¶ 23. " 'The overtime provision of the Illinois Minimum Wage Law, 820 ILCS 105/4a(1), is parallel to that of the [Fair Labor Standards Act of 1938 (29 U.S.C. § 201 *et seq.*)], and Illinois courts apply the same principles * * *.' " *Id.* (quoting *Urnikis–Negro v. American Family Property Services*, 616 F.3d 665, 672 n. 3 (7th Cir. 2010).

¶ 25 Specifically, section 12(a) of the IMWL provides:

> "If any employee is paid by his employer less than the wage to which he is entitled under the provisions of this Act, the employee may recover in a civil action the amount of any such underpayments together with costs and such reasonable attorney's fees as may be allowed by the Court, and damages of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. *** *At the request of the employee or on motion of the Director of Labor, the Department of Labor may make an assignment of such wage claim in trust for*

> *the assigning employee and may bring any legal action necessary to collect such claim,* and the employer shall be required to pay the costs incurred in collecting such claim. *** Such employer shall be additionally liable to the employee for damages in the amount of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. These penalties and damages may be recovered in a civil action brought by the Director of Labor in any circuit court. In any such action, the Director of Labor shall be represented by the Attorney General.
>
> If an employee collects damages of 2% of the amount of underpayments as a result of an action brought by the Director of Labor, the employee may not also collect those damages in a private action brought by the employee for the same violation. If an employee collects damages of 2% of the amount of underpayments in a private action brought by the employee, the employee may not also collect those damages as a result of an action brought by the Director of Labor for the same violation." (Emphasis added.) 820 ILCS 105/12(a) (West 2014).

¶ 26 In addition, subsection b provides that "[i]f an employee has not collected damages under subsection (a) for the same violation, the Director is authorized to supervise the payment of the unpaid minimum wages and the unpaid overtime compensation owing to any employee or employees under Sections 4 and 4a of this Act and may bring any legal action necessary to recover the amount of the unpaid minimum wages and unpaid overtime compensation and an equal additional amount as damages ***." 820 ILCS 105/12(b) (West 2014).

¶ 27 Although not cited by the parties in the case at bar, we find *Ecker v. Big Wheels, Inc.*, 136 Ill. App. 3d 651 (1985), to be instructive under the circumstances. In *Ecker,* an employee filed a civil suit seeking unpaid overtime wages and punitive damages pursuant to section 12 of the IMWL. *Id.* at 652. The circuit court granted the employer's motion to dismiss, and the Fourth District upheld the dismissal. *Id.* at 654. In dismissing the employee's claims, the circuit court found that the plaintiff employee admitted that he requested that the IDOL to collect the claim and admitted that he accepted the payment; thus, the circuit court held that the employee admitted that an assignment to the IDOL had been made, and it found that the acceptance of payment constituted an accord and satisfaction. *Id.* at 654. The appellate court observed that, although the record was unclear as to whether an assignment was actually made, the employee contended that any assignment was only for purposes of collection and he retained the power to sue. *Id.* The appellate court found that an assignment did not transfer beneficial ownership to the assignee (the IDOL); rather, it vested only legal title in the assignee and empowered the assignee to collect and allowed the debtor to discharge his debt by paying the assignee. *Id.* Accordingly, the court held that the circuit court properly dismissed the wage claims based on the assignment to the IDOL:

> "while there is at least some uncertainty as to the rights of an assignor for collection, we do not deem the intent of section 12 of the Minimum Wage Law to be to subject the employer to actions by both the employee and the Department. Rather the intent is to enable the employer to negotiate in good faith with the Department and to be free from suit by the employee-assignor while the assignment is in effect. For that reason alone, the trial court properly dismissed counts I and II." *Id.*

¶ 28 Additionally, the court concluded that "an accord and satisfaction occurs when, after assigning a wage claim to the [IDOL], an employee accepts from the employer, the amount determined by the [IDOL] to be due to the employee. Any other interpretation would constitute a substantial deterrent to employer cooperation with the [IDOL]." *Id.* at 655.

¶ 29 Given the language in section 12 and the decision in *Ecker,* we find that the circuit court here properly dismissed Ryou's civil suit for unpaid overtime wages based on the IDOL proceedings and recovery premised on the same claims. Although the language of section 12 has changed slightly since *Ecker,* the current language indicates, just as it did in *Ecker*, that an employee may either pursue his unpaid wage claim in a civil action, or assign it to the IDOL. At the pertinent time in *Ecker*, section 12 provided that "[a]t the request of any employee *** the Director may take an assignment of such wage claim in trust for the assigning employee and may bring any legal action necessary to collect such claim ***." *Ecker,* 136 Ill. App. 3d at 653 (quoting Ill.Rev.Stat.1983, ch. 48, par. 1012.) Now, for purposes of the current case, section 12(a) provides that "[a]t the request of the employee or on motion of the Director of Labor, the Department of Labor may make an assignment of such wage claim in trust for the assigning employee ***." 820 ILCS 105/12(a) (West 2014). Additionally, this subsection also makes clear that where an employee collects damages "as a result of an action brought by the Director of Labor, the employee may not also collect those damages in a private action brought by the employee for the same violation," and vice versa. 820 ILCS 105/12(a) (West 2012). The language of the statute further prohibits double recovery in subsection b, which provides that where the employee "has not collected damages under subsection (a) for the same violation, the director is authorized to supervise the payment" of the unpaid amounts and may bring a legal action to recover those amounts. 820 ILCS 105/12(b) (West 2014).

¶ 30 Ryou does not dispute that he filed a complaint with the IDOL concerning his unpaid overtime wage claim. In fact, Ryou attached to his response to the motion to dismiss copies of letters his attorney sent to the IDOL requesting to review the IDOL investigation file in "Case No. 13-A00948," and the letters state that the attorney represents "Ryou, the COMPLAINANT EMPLOYEE in the above referenced matter." Additionally, Yoon attached to his reply a copy of a letter from the IDOL to Cleaners which indicated that it had received a complaint and would conduct an investigation, and recited the same case number. The settlement agreement also contained the same case number and indicated that Ryou is one of the employees designated to receive payment of overtime wages as part of the settlement. This evidence shows that, instead of pursuing his own civil action, Ryou elected to file a complaint with the IDOL and assigned his claim to the IDOL for investigation and collection. As noted, the settlement agreement provided that, upon full payment of the settlement amount, Cleaners/Yoon would be released from the claims in Case No. 13-A00948. Ryou has offered nothing to contradict this evidence.

¶ 31 Any controversy that Ryou has with the IDOL cannot be decided in this appeal. Under section 12 and *Ecker*, pursuing an unpaid wage claim under the IMWL through the IDOL results in an assignment of the claim; an employer may not be subjected to actions by both the employee and the IDOL, as the "intent is to enable the employer to negotiate in good faith with the [IDOL] and to be free from suit by the employee-assignor while the assignment is in effect." *Ecker,* 136 Ill. App. 3d at 654.

¶ 32 Additionally, in accepting the first check from the settlement agreement and depositing it may have created an accord and satisfaction. *Ecker,* 136 Ill. App. 3d at 655. A case becomes moot when "the issues involved in the trial court no longer exist" and the appellate court cannot grant the complaining party relief. (Internal quotation marks omitted.) *American Service*

Insurance Co. v. City of Chicago, 404 Ill. App. 3d 769, 781 (2010). Essentially, " '[m]ootness occurs once the plaintiff has secured what he basically sought.' " *Id.* (quoting *Hanna v. City of Chicago*, 382 Ill. App. 3d 672, 677 (2008)). "Illinois appellate courts will not review moot cases." *Id.* As Yoon argues, Ryou did not formally object to the settlement agreement even after receiving the letter from the IDOL along with the check. See 56 Ill. Adm. Code 210.910, amended at 29 Ill. Reg. 4734 (eff. Mar. 21, 2005) (a employee may file a petition to intervene to present further evidence within 15 days after the employee receives notification of back wages or that his claim has been dismissed).

¶ 33 C. *Krause v. USA Docufinish*

¶ 34 Ryou also contends on appeal that this case is controlled by *Krause v. USA Docufinish*, 2015 IL App (3d) 130585, and should be reversed on that basis. In *Krause*, the plaintiff brought a small claims action under the Illinois Wage Payment and Collection Act (IWPCA) (820 ILCS 115/1 *et seq.* (West 2012)) to recover unpaid vacation day wages following termination of his employment. *Id.* ¶ 1. Before filing the complaint, he also filed a wage claim with the IDOL and the IDOL ordered the employer to pay the employee $3,346.56. *Id.* ¶ 2. The employer initially disputed the IDOL ruling, but later paid the amount ordered after the employee filed his civil claim. *Id*. The trial court granted the employer's motion to dismiss upon finding that section 14 of the IWPCA removed the court's jurisdiction over the wage claim after the plaintiff received a wage payment demand from the IDOL. *Id.* ¶ 12. In reversing the dismissal, the appellate court examined sections 11 and 14 of the IWPCA, including amendments thereto and legislative debates concerning the amendments. *Id.* ¶¶ 24-29. Based on its analysis of these provisions, the court concluded that issuance of a wage payment demand by the IDOL did not divest the court of jurisdiction over the employee's civil claim for the owed wages. *Id.* ¶¶ 26-33. Specifically,

section 14 provided that an employee who was not paid wages under the IWPCA " 'shall be entitled to recover through a claim filed with the Department of Labor or in a civil action, *but not both*, the amount of any such underpayments and damages of 2% ***.' " (Emphasis added in original.) *Id.* ¶ 9 (quoting 820 ILCS 115/14(a) (West 2012)). Section 11 provided that the IDOL could establish an administrative procedure to adjudicate claims of less than $3,000 and issue "final and binding administrative decisions," but this section also stated that it should not be " 'construed to prevent any employee from making a complaint or prosecuting his or her own claim for wages.' " *Id.* ¶ 27 (quoting 820 ILCS 115/11 (West 2010)). Section 11 also provided that an employee alleging a violation of the IWPCA " 'may file suit in circuit court of Illinois *** without regard to exhaustion of any alternative administrative remedies provided in this Act.' " *Id.* (quoting 820 ILCS 115/11 (West 2012)). The court ruled that these provisions indicated that the legislature did not intend to bar an employee from pursuing unpaid wages in the circuit court after filing a claim with the IDOL. *Id.* ¶¶ 27-29. Further, the employee's civil complaint sought not only to enforce the wage payment demand, but also an independent civil claim to collect wages owed under the IWPCA.

¶ 35 Ryou claims that *Krause* is dispositive in the case at bar. We disagree. *Krause* is not controlling or applicable in the present case. The issue in *Krause* involved interpretation of an entirely different act—the Illinois Wage Payment Collection Act—and not the Illinois Minimum Wage Law. Moreover, Ryou points to no provisions in the IMWL which are similar to the provisions of the IWPCA at issue in *Krause* and we note that the two acts contain different language.

¶ 36 III. CONCLUSION

¶ 37 Based on the foregoing analysis, we affirm the circuit court's order granting Yoon's motion to dismiss.

¶ 38 Affirmed.