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2016 IL App (3d) 150812-U

Order filed July 11, 2016

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2016

KELLIE MORRISSEY,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
Plaintiff-Appellee,)	Rock Island County, Illinois.
)	
v.)	Appeal No. 3-15-0812
)	Circuit No. 15-AR-54
RUSS RUMLEY d/b/a QC RESTORATION,)	
)	The Honorable
Defendant-Appellant.)	Thomas C. Berglund,
)	Judge, presiding.

JUSTICE McDADE delivered the judgment of the court.
Justices Lytton and Wright concurred in the judgment.

ORDER

¶ 1 *Held:* The circuit court did not err when it ruled that the defendant untimely filed his rejection of an arbitration award and that the defendant was not entitled to an extension of time to file the rejection.

¶ 2 The plaintiff, Kellie Morrissey, sued the defendant, Russ Rumley d/b/a QC Restoration, for breach of contract, conversion, and breach of warranty of workmanship after the defendant allegedly failed to complete home improvement work for the plaintiff. The defendant attempted to reject an arbitration award in favor of the plaintiff, but the circuit court ruled that the rejection

was untimely and that the defendant was not entitled to an extension of time to file the rejection. On appeal, the defendant argues that both of the circuit court's rulings were erroneous. We affirm.

¶ 3

FACTS

¶ 4

The plaintiff filed a three-count civil complaint against the defendant on March 19, 2015, alleging breach of contract, conversion, and breach of warranty of workmanship. The complaint alleged that the plaintiff paid the defendant \$28,025 to perform remodeling and repair work to her house and that the defendant failed to complete the work. On May 22, 2015, the parties appeared and the circuit court scheduled the case for arbitration to be held on July 30, 2015. The arbitration hearing in fact took place on that date and resulted in an award of \$26,000 to the plaintiff. The arbitration award was dated July 30, 2015, and noted that all parties participated in good faith. The post-arbitration hearing order stated that the case was set for an arbitration judgment call for September 11, 2015, and that if no rejection of the award had been timely filed, any party could appear in court on that date and move the court to enter judgment on the award.

¶ 5

The circuit clerk mailed a copy of the arbitration award to the defendant on August 12, 2015. However, the defendant admitted that he received a copy of the award on August 3, 2015. On September 2, 2015, counsel for the defendant entered an appearance and filed a notice of rejection of the arbitration award. On October 1, 2015, counsel filed a motion for leave of court for an extension to file the rejection, alleging that the defendant, who was *pro se* at the time, misunderstood the post-arbitration hearing order as allowing him until September 11, 2015, to file a rejection of the award.

¶ 6

The circuit court heard arguments on the matter on October 5, 2015, and issued a written order on October 30, 2015. The court ruled that Supreme Court Rule 93 clearly required a

rejection of the arbitration award to be filed within 30 days of the filing of the award with the circuit clerk. Because the award had been filed with the circuit clerk on July 30, 2015, the 30-day period began running on that day and the defendant's September 2, 2015, rejection was untimely. The court also found that the defendant's request for an extension to file the rejection was based on a claim that he was *pro se* and that he was confused as to the arbitration procedures. The court ruled that this was not a valid excuse and that the defendant had not shown that he was entitled to an extension.

¶ 7 The defendant appealed.

¶ 8 ANALYSIS

¶ 9 The defendant's first argument on appeal is that the circuit court erred when it ruled that his rejection of the arbitration award was untimely.

¶ 10 We review the circuit court's application of a supreme court rule under the *de novo* standard. *Robidoux v. Oliphant*, 201 Ill. 2d 324, 332 (2002).

¶ 11 The defendant claims that Supreme Court Rule 12(c) (eff. Sept. 19, 2014) is controlling in that it states service by mail is complete four days after mailing, thereby making the deadline for filing a rejection September 4, 2015.

¶ 12 The defendant is incorrect in his claim that Rule 12(c) controls because filing is what matters in this context, not service.¹ Supreme Court Rule 93 (eff. Jan. 1, 1997) addresses the rejection of arbitration awards and states, in relevant part, that a rejection must be filed "[w]ithin 30 days after the filing of an award with the clerk of the court[.]" Ill. S. Ct. R. 93(a) (eff. Jan. 1,

¹ An example of a rule in which service is the operative event, as opposed to filing, is Rule 216(c) (eff. July 1, 2014), which addresses the requests for admissions of facts. See *Bright v. Dicke*, 166 Ill. 2d 204, 207 (1995) (holding that the operative event under Rule 216(c) is service, not filing).

1997). The record in this case shows that the arbitration award was filed with the clerk on July 30, 2015. Because the defendant did not file his rejection until September 2, 2015—more than 30 days after the award was filed with the clerk—we hold that the circuit court did not err when it ruled that the defendant’s rejection was untimely.

¶ 13 The defendant’s second argument on appeal is that the circuit court erred when it ruled that the defendant was not entitled to an extension of time to file his rejection of the arbitration award.

¶ 14 Illinois Supreme Court Rule 183 (eff. Feb. 16, 2011) provides that “[t]he court, for good cause shown on motion after notice to the opposite party, may extend the time for filing any pleading or the doing of any act which is required by the rules to be done within a limited period, either before or after the expiration of the time.” The “good cause” requirement was addressed by our supreme court in *Vision Point of Sale, Inc. v. Haas*, 226 Ill. 2d 334, 353 (2007):

“[Under Rule 183, t]he circuit court has the sound discretion to consider all objective, relevant evidence presented by the delinquent party with respect to why there is good cause for its failure to comply with the original deadline and why an extension of time should now be granted. The circuit court may receive evidence with respect to whether the party's original delinquency was caused by mistake, inadvertence, or attorney neglect, but may not engage in an open-ended inquiry which considers conduct that is unrelated to the causes of the party's original noncompliance.”

The burden of proving good cause rests with the moving party. *Id.* at 353. We review a circuit court’s decision on a motion brought pursuant to Rule 183 for an abuse of discretion. *Id.* at 354.

¶ 15 The defendant’s bases for his good-cause argument are that: (1) the post-arbitration hearing order was confusing in that it did not state the deadline to timely file a rejection; and (2) the clerk was negligent in failing to mail the award to the defendant until August 12, 2015.

¶ 16 Our review of the record in this case reveals that neither of the defendant’s bases constitute good cause. While the defendant was *pro se* at all times prior to September 2, 2015, the law presumes that *pro se* litigants possess full knowledge of applicable court rules and procedures and must comply with them just as litigants represented by attorneys. *Steinbrecher v. Steinbrecher*, 197 Ill. 2d 514, 528 (2001). It is of no consequence that the post-arbitration hearing order in this case did not state on what date the period to file a rejection would expire; Rule 93(a)’s import in this case was clear. See *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 18 (holding that “[i]t is of no matter that a party appears *pro se*; regardless of his status, no party is relieved of the duty to comply, as closely as possible, with the rules of our courts”). It is also of no consequence that the clerk did not place the award in the mail to the defendant until August 12, 2015; as stated above, the operative event in this case was the filing of the award with the clerk (*supra* ¶ 12). The defendant was present in court on May 22, 2015, when the court scheduled the case for arbitration to be held on July 30, 2015. The arbitration hearing took place on that date with all parties participating in good faith. Under these circumstances, we hold that the circuit court did not abuse its discretion when it ruled that the defendant was not entitled to an extension of time to file his rejection of the arbitration award.

¶ 17 CONCLUSION

¶ 18 The judgment of the circuit court of Rock Island County is affirmed.

¶ 19 Affirmed.