2017 IL App (1st) 152105WC-U

NO. 1-15-2105WC

Order filed: January 6, 2017

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

RONALD BERRYHILL,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County.
	)	
v.	)	No. 15-L-50142
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION	)	Honorable
(Illinois State Toll Highway Authority,	)	Robert Lopez Cepero,
Defendant-Appellee).	)	Judge, presiding.

JUSTICE MOORE delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hudson, Harris, and Hoffman concurred in the judgment.

ORDER

¶ 1 *Held*: Because the claimant may not seek judicial review of the decision of the Commission in a claim against the State (see 820 ILCS 305/19(f)(1) (West 2016)), we affirmed the decision of the circuit court.

¶ 2 The claimant, Ronald Berryhill, appeals the judgment of the circuit court of Cook County which dismissed his action for judicial review of the decision of the Illinois Workers' Compensation Commission (the Commission) in the claimant's case against the employer, the Illinois State Toll Highway Authority. For the reasons that follow, we affirm.

¶ 3 FACTS

¶ 4 On November 19, 2003, the claimant filed an application for an adjustment of claim pursuant to the Illinois Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq.* (West 2002)), in which he named as his employer "State of Illinois – Tollway Department." On May 23, 2005, the claimant filed an amended application, in which, *inter alia*, the name of his employer was changed to "Illinois State Toll Highway Authority." Proceedings not relevant to this appeal followed, and ultimately, on May 19, 2010, the arbitrator filed a fourth corrected arbitration decision, in which he found that the claimant sustained accidental injuries arising out of and in the course of his employment and that his current condition of ill-being was causally related to the accident. The arbitrator awarded the claimant temporary total disability benefits for 275 and 4/7 weeks, medical expenses in the amount of $8,830.98, permanent partial disability benefits for 250 weeks, representing 50% loss of the person as a whole, and penalties in the amount of $3,990.00.

¶ 5 The claimant sought review of the arbitrator's decision before the Commission. On January 20, 2015, the Commission modified the arbitrator's decision, reducing it to 109 weeks of temporary total disability benefits, $6,751.23 in medical expenses, and

permanent partial disability benefits representing 40% loss of the person as a whole. The Commission also vacated the penalties awarded by the arbitrator. The Commission noted that it was "significantly reducing the [a]rbitrator's award" because it found that the claimant's testimony was "not credible" with regard to the employer's alleged failure to abide by work restrictions, and with regard to the claimant's "explanation for his suboptimal effort as found in a functional capacity evaluation."

¶ 6 The claimant, on February 25, 2015, filed a petition for judicial review in the circuit court of Cook County. The employer thereafter filed a motion to dismiss the petition, and a brief in support thereof. Therein, the employer contended that the claimant's petition was untimely, and that the claimant could not seek judicial review of a claim against the State. The circuit court set an evidentiary hearing on the employer's motion to dismiss, ordering that at the hearing, the claimant was to "provide envelope containing the decision of the [Commission] for review by the court." On June 24, 2015, the circuit court entered an order in which it granted the employer's motion to dismiss because the claimant had "not produced evidence to support that this appeal was brought timely." The claimant now appeals the circuit court's judgment.

¶ 7 ANALYSIS

¶ 8 On appeal, the claimant does not directly address the decision of the Commission, or for that matter the decision of the arbitrator. Instead, construing his *pro se* brief as liberally as possible, he appears to attempt to raise claims of discrimination and wrongful discharge that at this point procedurally, properly could be raised—if at all—only in a civil action separate from this appeal under the Act. The employer notes

the severe deficiencies in the claimant's opening brief on appeal, and asks this court to strike the brief, and/or find the claims therein to be forfeited. The employer also makes substantive arguments in support of affirming the judgment of the circuit court, which, we note, is the only judgment properly before us.

¶ 9 We review *de novo* the judgment of the circuit court which granted the employer's motion to dismiss. See, *e.g.*, *BDO Seidman, LLP v. Harris*, 379 Ill. App. 3d 918, 923 (2008). We may affirm the judgment of the circuit court " 'if it is justified in the law for any reason or ground appearing in the record regardless of whether the particular reasons given by the trial court, or its specific findings, are correct or sound.' " *Id* (quoting *Natural Gas Pipeline Co. of America v. Phillips Petroleum Co.*, 163 Ill. App. 3d 136, 142 (1987)).

¶ 10 With regard to the employer's contentions about the claimant's brief, it is true that like any party in an appeal, the claimant is obliged to comply with our supreme court's rules governing the content of appellate briefs. See *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7 (rules governing content of appellate briefs are requirements, not mere suggestions). The claimant's *pro se* status does not relieve him of that obligation. See *Biggs v. Spader*, 411 Ill. 42, 44-46 (1951). An argument raised on appeal must contain "the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013). Under Rule 341(h)(7), a reviewing court is entitled to have issues clearly defined, with "cohesive arguments" presented and pertinent authority cited. *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). An appellant forfeits any contention that is

not supported by argument or by citation to authority. *Id.* Where an appellant's brief lacks any substantial conformity to the Supreme Court rules governing the contents of briefs and thus hinders appellate review, a court may justifiably strike the brief and dismiss the appeal. *Hall*, 2012 IL App (2d) 111151, ¶ 15. Indeed, the absence of a complete statement of facts, in and of itself, justifies striking an appellant's brief and dismissing an appeal. *Alderson v. Southern Co.*, 321 Ill. App. 3d 832, 845 (2001).

¶ 11 Nevertheless, the severe deficiencies of the claimant's briefs[1] notwithstanding, the issue that must be resolved in this appeal is a very simple one. Accordingly, in the interest of justice, we shall address it. It is axiomatic that the Act prohibits judicial review of the Commission's decisions resolving claims against the State of Illinois. See, *e.g.*, *Yonikus v. Indus. Comm'n*, 228 Ill. App. 3d 333, 339 (1992). That is because the plain language of the Act states that except in rare circumstances that are not applicable to this appeal, the decisions of the Commission in claims against the State of Illinois are not subject to judicial review. See 820 ILCS 305/19(f)(1) (West 2016). This court has considered whether this prohibition of judicial review constitutes a denial of equal protection under either our state constitution or the United States Constitution, and has found that it does not. *Yonikus*, 228 Ill. App. 3d at 337-339. The claimant does not argue that the employer is not an agency of the State of Illinois, or that he was not an employee

[1] We note that the deficiencies persist in the claimant's reply brief, which does not respond in any meaningful way to the points raised by the employer in its brief, instead merely reiterating the contents of the claimant's opening brief.

of the State of Illinois at the time of his injury. Accordingly, he has forfeited consideration of any such claims. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (argument must contain the contentions of the appellant, the reasons therefor, and the citation of authorities; points not argued in an opening brief are forfeited and shall not be raised in the reply brief, in oral argument, or in a petition for a rehearing). Forfeiture notwithstanding, there would be no merit to such claims, even if the claimant made them. The employer is clearly an agency of the State of Illinois. See 605 ILCS 10/1 (West 2016) (legislative declaration that Illinois State Toll Highway Authority is "an instrumentality and administrative agency of the State of Illinois" upon which is conferred "all powers necessary or appropriate to enable said Authority to carry out the foregoing stated legislative purpose and determination"); see also, 1971 Op. Atty. Gen. No. S-330 (Illinois State Toll Highway Authority is a state agency and therefore is not subject to liability for court costs or sheriff's fees). Moreover, in his pleadings in this case, the claimant has consistently maintained that he was an employee of the State of Illinois at the time of his injury, and there is no doubt that if we were to afford the claimant relief from the decision of the Commission, it would subject the State of Illinois to liability. See, *e.g.*, *Illinois State Treasurer v. Illinois Workers' Compensation Com'n*, 2013 IL App (1st) 120549WC, ¶ 15 (dispositive question in sovereign immunity analysis of whether claim is brought against State includes whether judgment would subject State to liability).

¶ 12 CONCLUSION

¶ 13 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 14 Affirmed.