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2017 IL App (1st) 152282WC-U

FILED: February 17, 2017

NO. 1-15-2282WC

IN THE APPELLATE COURT

OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

ERIN EILER,)	Appeal from
)	Circuit Court of
Appellant,)	Cook County
)	No. 12L50899
v.)	15L50194
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> (Innophos, Inc., Appellee).)	Honorable
)	James M. McGing,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* Claimant's notice of appeal, filed after the circuit court's judgment but prior to the disposition of claimant's postjudgment motions, was premature and did not confer jurisdiction upon the appellate court.

¶ 2 Claimant, Erin Eiler, sought judicial review of a decision of the Illinois Workers' Compensation Commission (Commission) with the circuit court of Cook County. The employer, Innophos, Inc., filed a motion to dismiss claimant's request for judicial review, arguing it was untimely. The court granted the employer's motion and claimant appeals *pro se*. We dismiss her appeal for lack of appellate jurisdiction.

¶ 3

I. BACKGROUND

¶ 4 Claimant sought benefits from the employer under the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2004)), alleging she sustained injuries that arose out of and in the course of her employment on September 2, 2005. After a hearing, the arbitrator awarded claimant 1-3/7 weeks' temporary total disability (TTD) benefits, but determined claimant failed to prove she was permanently disabled.

¶ 5 Claimant *pro se* sought review of the arbitrator's decision with the Commission. However, she failed to pay the estimated cost of the arbitration transcript and the Commission issued a rule to show cause, requesting claimant show cause why her petition for review should not be dismissed for her failure to perfect review. During proceedings on the Commission's rule to show cause, claimant asserted she lacked the funds to pay for the arbitration transcript and the Commission conducted a hearing to determine whether a finding of pauper's status pursuant to section 20 of the Act (820 ILCS 305/20 (West 2008)) was appropriate.

¶ 6 On December 17, 2010, the Commission determined claimant failed to show she was without the financial means to pay the costs associated with her petition for review, but gave her additional time to pay for the arbitration transcript. On June 8, 2012, the Commission determined claimant failed to perfect her petition for review and dismissed her petition. Claimant then sought judicial review with the circuit court of Cook County (case No. 12L50899). On December 27, 2012, the court confirmed the Commission.

¶ 7 Claimant next appealed to this court. On May 19, 2014, we reversed, finding the Commission erred in concluding its December 2010 order was a final order and relying on claimant's failure to seek timely review of that order when dismissing her petition for review of the arbitrator's decision. *Eiler v. Illinois Workers' Compensation Comm'n*, 2014 IL App (1st)

130111WC-U, ¶ 19. We also remanded the matter to the Commission with directions that it vacate its June 8, 2012, decision, and reconsider its order to show cause and dismissal of claimant's petition for review. *Id.* ¶ 22.

¶ 8 On December 10, 2014, the Commission issued an order on remand. It vacated its June 2012 order and, again, dismissed claimant's petition for review of the arbitrator's September 2009 decision.

¶ 9 On February 2, 2015, claimant received the Commission's December 2014 decision. In February and March 2015, she filed various documents with the circuit court in case No. case No. 12L50899. On March 19, 2015, claimant filed several documents with the circuit court, including a request for summons, seeking judicial review of the Commission's December 2014 decision. Claimant's March 19, 2015, filings were designated as case No. 15L50194.

¶ 10 On May 5, 2015, the employer filed a motion to dismiss case No. 15L50194. It asserted claimant's request for review of the Commission's December 2014 decision on remand was filed more than 20 days after claimant's receipt of that decision and, therefore, was untimely under section 19(f) of the Act (820 ILCS 305/19(f) (West 2014)). The employer also noted that although claimant filed documents in her previous circuit court case, case No. 12L50899, those documents were "erroneous and unrelated to the current matter as a decision was reached [in case No. 12L50899] in July of 2014."

¶ 11 On June 12, 2015, claimant filed a "Motion to Dismiss [the employer's] Motion to Dismiss." She asserted she attempted to appeal the Commission's December 2014 decision prior to March 19, 2015, by filing documents under her previous case, case No. 12L50899. Claimant further alleged she submitted documents by mail on February 20, 2015, which "were erroneously returned by the clerk and unfiled due to insufficient funds with a letter dated on March 5, 2015."

Specifically, she asserted "[i]n *forma pauperis* documents were presented with summons and complaint documents by mail on February 20, 2015, and subsequently the same documents were approved on [March 19, 2015] when [claimant] had to personally bring in the returned documents to the clerk of courts." She asserted the proper date of filing for her request for review was February 20, 2015.

¶ 12 On July 9, 2015, the circuit court granted the employer's motion to dismiss. In its ruling, the court noted claimant's March 19, 2015, request for the issuance of a summons was filed more than 25 days after the Act's 20-day time frame for appealing a Commission decision. Further, the court found claimant failed to provide documentation showing she attempted to file a request for summons that was rejected by the circuit court clerk. Rather, documents that were received by the clerk were filed under the previous circuit court case number (case No. 12L50899) and none of those documents were in the form of a request for the issuance of a summons.

¶ 13 The record next reflects, on August 3, 2015, claimant filed a motion for rehearing. Her motion listed both circuit court case numbers (case No. 12L50899 and case No. 15L50194) and, in part, "petition[ed]" the court to review various documents she filed and proof of mailing receipts. Claimant asserted her belief that "all necessary documents were filed in order to perfect an appeal." Her filings on August 3, 2015, also included a motion to vacate the circuit court's judgment. Again, she listed both circuit court case numbers in the heading of her motion. On August 7, 2015, claimant filed an amended motion for rehearing (referencing both case No. 12L50899 and case No. 15L50194). She also refiled her motion to vacate. The record fails to reflect that the circuit court ruled upon claimant's postjudgment motions.

¶ 14 On August 7, 2015, claimant filed her notice of appeal, challenging the trial

court's July 9, 2015, decision.

¶ 15

II. ANALYSIS

¶ 16

Initially, we are compelled to comment on deficiencies in the parties' briefs. First, we note claimant failed to comply with the rules for appellate briefs in several respects. Most notably, she failed to cite to any portion of the voluminous appellate record to support her claims. Ill. S. Ct. R. 341(h)(6), (h)(7) (eff. Feb. 6, 2013). She also failed to include an appropriate appendix to her brief. Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). Although claimant appeals *pro se*, her *pro se* status does not relieve her of her burden to comply with court rules. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 39, 839 N.E.2d 532, 535 (2005). Further, we note the employer's appellee's brief was similarly deficient in that it also failed to cite to any portion of the appellate record. Ill. S. Ct. Rule 341(h)(7), (i) (eff. Feb. 6, 2013). Such deficiencies only serve to frustrate review. We caution the parties that their failure to comply with the Illinois Supreme Court Rules regarding the content of appellate briefs can result in dismissal of an appeal or provide grounds for disregarding their arguments. *Epstein*, 362 Ill. App. 3d at 42, 839 N.E.2d at 537.

¶ 17

On appeal, claimant argues the circuit court erred in granting the employer's motion to dismiss her request for review of the Commission's December 2014 decision. However, before addressing the merits of her appeal, we must first consider the question of our own jurisdiction that is presented by the record. *Wood Dale Electric v. Illinois Workers Compensation Comm'n*, 2013 IL App (1st) 113394WC, ¶ 8, 986 N.E.2d 107 ("Although neither party raises a jurisdictional issue, we have a duty to consider our jurisdiction and to dismiss this appeal if our jurisdiction is lacking.").

¶ 18

Under the Act, appeals from circuit court decisions "shall be taken to the Appellate Court in accordance with Supreme Court Rules 22(g) and 303." 820 ILCS 305/19(f)(2)

(West 2014). Illinois Supreme Court Rule 303(a)(1) (eff. Jan. 1, 2015), provides that an appealing party's "notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from, or, if a timely posttrial motion directed against the judgment is filed, *** within 30 days after the entry of the order disposing of the last pending postjudgment motion directed against that judgment or order." "[A] notice of appeal filed before the entry of the order disposing of the last pending postjudgment motion *** becomes effective when the order disposing of said motion *** is entered." Ill. S. Ct. R. 303(a)(2) (eff. Jan. 1, 2015). "A premature notice of appeal does not confer jurisdiction on the appellate court." *In re Marriage of Gutman*, 232 Ill. 2d 145, 156, 902 N.E.2d 631, 637 (2008).

¶ 19 Here, on July 9, 2015, the circuit court granted the employer's motion to dismiss claimant's request for judicial review of the Commission's December 2014 decision. Within 30 days of the entry of that decision, claimant filed postjudgment motions directed against the court's dismissal of her case. The record does not show that claimant's postjudgment motions were ever disposed of by the circuit court and, in her reply brief, claimant acknowledges that her motions were never addressed, stating as follows: "A timely motion for rehearing was filed within the circuit court of [C]ook [C]ounty *** from an order issued [on] July 9, 2015[,] was [*sic*] never decided?" Because claimant's postjudgment motions were not disposed of, her notice of appeal was premature and it failed to confer jurisdiction on this court.

¶ 20 III. CONCLUSION

¶ 21 For the reasons stated, we dismiss this case for lack of appellate jurisdiction.

¶ 22 Appeal dismissed.