

No. 1-16-1353WC

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

MINAS ARMIRAS,)	Appeal from the
)	Circuit Court of
Appellee,)	Cook County
)	
v.)	No. 14 L 50980
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Alexander P. White,
(Palmer House Hilton, Appellant).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* We affirmed the circuit court's order denying the employer's motion to vacate the order of August 13, 2015, which reversed a decision of the Illinois Workers' Compensation Commission and reinstated the arbitrator's decision.

¶ 2 The Palmer House Hilton (Palmer House) appeals from an order of the circuit court denying its motion to vacate its order of August 13, 2015, which reversed the Illinois Workers' Compensation Commission's (Commission) decision of December 12, 2014, and reinstated the

decision of the arbitrator awarding the claimant, Minas Armiras, benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2004)) for injuries he sustained while in its employ on August 11, 2005. For the reasons which follow, we affirm the judgment of the circuit court.

¶ 3 The claimant, Minas Armiras, filed an application for adjustment of claim pursuant to the Act, seeking benefits for injuries to his neck, right shoulder, and right arm which he sustained on August 11, 2005, while in the employ of Palmer House. The claim proceeded to arbitration on September 29, 2010. The arbitrator issued a decision on October 25, 2010, finding that the claimant suffered an accident on August 11, 2005, while in the employ of Palmer House and that his current condition of ill-being is causally related to that accident. The arbitrator awarded the claimant 267 weeks of temporary total disability (TTD) benefits and \$17,732 in medical expenses. In addition, the arbitrator found that the medical evidence presented established that the claimant is permanently and totally disabled (PTD) and, as a consequence, awarded him PTD benefits for life.

¶ 4 Palmer House sought a review of the arbitrator's decision before the Commission. In a unanimous decision dated November 23, 2011, the Commission adopted the arbitrator's finding that the claimant's current condition of ill being is causally related to his employment with Palmer House. However, the Commission vacated the claimant's PTD award and instead awarded him permanent partial disability (PPD) benefits for the loss of 50% of a person as a whole, finding that the claimant failed to establish his entitlement to PTD benefits based upon an "odd-lot" theory. The Commission also found that the claimant had reached maximum medical improvement on March 30, 2009, and reduced his TTD award to 189 $\frac{3}{7}$ weeks of benefits. Finally, the Commission adopted the arbitrator's award for medical expenses.

¶ 5 The claimant filed a petition for judicial review of the Commission's November 23, 2011, decision in the circuit court of Cook County. On August 31, 2012, the circuit court entered an order confirming the Commission's decision.

¶ 6 The claimant filed a timely appeal from the circuit court's order of August 31, 2012. On December 23, 2013, this court entered an order in which we found that the Commission erroneously based its decision on the conclusion that the claimant failed to establish his entitlement to PTD benefits based upon an "odd-lot" theory, a theory which the claimant never asserted. As a consequence, we vacated the Commission's decision of November 23, 2011, vacated the circuit court's order of August 31, 2012, and remanded the matter back to the Commission with directions to make appropriate findings necessary to determine whether the claimant proved he was permanently and totally disabled based upon a preponderance of the medical evidence. *Armiras v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 122852WC-U, ¶ 38.

¶ 7 On remand, the Commission issued a unanimous decision on December 12, 2014. The Commission found that, based upon a preponderance of the medical evidence, the claimant failed to prove his entitlement to a PTD award and awarded him the same benefits which it had awarded in its decision of November 23, 2011.

¶ 8 The claimant filed a petition for judicial review of the Commission's December 12, 2014, decision in the circuit court of Cook County. On August 13, 2015, Judge Robert Lopez Cepero entered an order reversing the Commission's decision and reinstating the arbitrator's award of October 21, 2010.

¶ 9 On September 8, 2015, Palmer House filed its notice of appeal from the circuit court's order of August 13, 2015. However, on September 22, 2015, apparently *sua sponte*, Judge

Cepero entered an order again reversing the Commission's decision of December 12, 2014, but remanding the matter back to the Commission with directions to follow this court's order of December 23, 2013, and make appropriate findings necessary to determine whether the claimant proved he was permanently and totally disabled based upon a preponderance of the medical evidence.

¶ 10 On September 29, 2015, Palmer House filed a motion in this court to dismiss its pending appeal, representing to this court that its appeal was premature. On October 5, 2015, this court granted Palmer House's motion and dismissed its appeal accordingly.

¶ 11 On October 8, 2015, the claimant filed a motion in the circuit court of Cook County to vacate the order of September 22, 2015, due to lack of jurisdiction. On November 3, 2015, Judge Edmund Ponce de Leon granted the claimant's motion and vacated the September 22, 2015, order.

¶ 12 On November 24, 2015, Palmer House filed a motion in this court requesting that we vacate our order of October 5, 2015, and reinstate its appeal. On December 9, 2015, we denied Palmer House's motion for want of jurisdiction.

¶ 13 On December 15, 2015, Palmer House filed a notice of appeal, but that appeal was dismissed in the circuit court on December 29, 2015.

¶ 14 On December 30, 2015, Palmer House filed a motion in this court for leave to file a late notice of appeal from the circuit court's order of August 13, 2015. On January 8, 2016, this court denied Palmer House's motion for want of jurisdiction as the motion was not filed within the time limits provided in Illinois Supreme Court Rule 303(d) (eff. Jan. 1, 2015). Palmer House filed a motion with the supreme court seeking a supervisory order directing this court to allow its late notice of appeal. The supreme court denied the motion on March 8, 2016.

¶ 15 On March 18, 2016, Palmer House filed a motion in the circuit court of Cook County seeking an order vacating Judge Cepero's order of August 13, 2015, which reversed the Commission's decision of December 12, 2014, and reinstated the arbitrator's award of October 21, 2010. Palmer House argued that the circuit court's order of August 13, 2015, was void for lack of jurisdiction as it exceeded the scope of our remand in *Armiras*, 2013 IL App (1st) 122852WC-U, ¶ 38. On May 4, 2016, the circuit court denied Palmer House's motion, and this appeal followed.

¶ 16 Palmer House asserts that the circuit court had no jurisdiction to enter its order of August 13, 2015, reinstating the arbitrator's award of October 21, 2010, and as a consequence, the order is void. It argues, therefore, that the circuit court erred in denying its motion to vacate the August 13, 2015, order. Palmer House contends that the circuit court's jurisdiction to review the Commission's decision of December 12, 2014, was limited by this court's decision in *Armiras*, 2013 IL App (1st) 122852WC-U, to determining whether the Commission's decision on remand was in conformity with this court's mandate. The argument is specious.

¶ 17 At the outset, we wish to address Palmer House's misstatement of our prior decision. As noted above, in our earlier decision, we vacated the Commission's decision of November 23, 2011, vacated the circuit court's order of August 31, 2012, and remanded the matter back to the Commission with directions to make appropriate findings necessary to determine whether the claimant proved he was permanently and totally disabled based upon a preponderance of the medical evidence. *Armiras*, 2013 IL App (1st) 122852WC-U, ¶ 38. We issued no directions as to the circuit court's powers on review of any decision which the Commission might issue on remand. Our only directions were addressed to the Commission on remand, and our review of the record discloses that the Commission followed the mandate. We are at a loss to understand

Palmer House's assertion that the circuit court's jurisdiction on review of the Commission's decision on remand was somehow limited to a determination of whether the Commission's decision was in accordance with our mandate. In any case, we reject the Palmer House's jurisdictional argument on the merits.

¶ 18 Whether a circuit court had the necessary jurisdiction to entertain a claim is a question of law which we review *de novo*. *Crossroads Ford Truck Sales, Inc. v. Sterling Truck Corp.*, 2011 IL 111611, ¶ 26. The jurisdiction of the circuit court consists of two elements: subject matter jurisdiction and personal jurisdiction. *People v. Castleberry*, 2015 IL 116916, ¶ 12. Subject matter jurisdiction refers to a court's power to hear and determine the class of cases to which the proceeding in question belongs. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002). Personal jurisdiction is the court's power over the parties. *In re M.W.*, 232 Ill. 2d 408, 415 (2009).

¶ 19 In this case, Palmer House has never questioned the circuit court's jurisdiction over the parties. Rather, its entire argument before both the circuit court and this court is that the circuit court lacked subject matter jurisdiction to enter its order of August 13, 2015.

¶ 20 The Illinois Constitution provides that the circuit court's have such power to review administrative action as provided by law. Ill. Const. 1970, art. VI, § 9. "Although the circuit courts are courts of general jurisdiction and enjoy a presumption of subject matter jurisdiction, that presumption does not apply in workers' compensation proceedings where the court exercises special statutory jurisdiction." *Rojas v. Illinois Workers' Compensation Comm'n*, 406 Ill. App. 3d 965, 971 (2010). The circuit court's jurisdiction to review a decision of the Commission is a special statutory power. *Wood Dale Electric v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 113394WC, ¶ 9. Consequently, the circuit court may only exercise its power within

the limits of the jurisdiction conferred by statute. *Id.*; see also *Smith v. Smith*, 334 Ill. 370, 379-80 (1929).

¶ 21 Section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2014)) grants the circuit court the power to review all question of law and fact presented by a decision of the Commission. Section 19(f)(2) of the Act provides that, on judicial review of a decision of the Commission, the circuit court may:

"confirm or set aside the decision of the Commission. If the decision is set aside and facts found in the proceedings before the Commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Commission for further proceedings ***." 820 ILCS 305/19(f)(2) (West 2014).

The record clearly demonstrates that in entering its order of August 13, 2015, the circuit court acted within the power conferred upon it by the Act.

¶ 22 The Commission issued its decision on remand on December 12, 2014. The claimant filed a timely petition for judicial review of that decision in the circuit court of Cook County. Pursuant to section 19(f)(1) of the Act, the circuit court possessed the power to review all issues of law and fact presented by the record before it. 820 ILCS 305/19(f)(1) (West 2014). That included not only the power to determine whether the Commission on remand acted in accordance with our mandate, but also to determine whether the Commission's decision was supported by the manifest weight of the evidence. After conducting its review, section 19(f)(2) of the Act empowered the circuit court to confirm or set aside the decision of the Commission, and if the Commission's decision was set aside, to enter such decision as is justified by law, if the facts found in the proceedings before the Commission were sufficient. 820 ILCS 305/19(f)(2) (West 2014).

¶ 23 In this case, the circuit court exercised its statutory power to review the Commission's decision of December 12, 2014, and in furtherance of its statutory power, reversed the Commission's decision. And when, as in this case, the circuit court sets aside a decision of the Commission, it may reinstate the arbitrator's award. *Burrell v. Industrial Comm'n*, 171 Ill. App. 3d 723, 729 (1988); see also *Quick v. Industrial Comm'n*, 53 Ill. 2d 46, 50 (1972). This is exactly what the circuit court did when it entered its order of August 13, 2015. Stated otherwise, the circuit court acted in accordance with the power conferred upon it by the Act and, therefore, did not act outside of its subject matter jurisdiction.

¶ 24 We, therefore, affirm the judgment of the circuit court which denied Palmer House's motion to vacate its order of August 13, 2015, which reversed the Commission's decision of December 12, 2014, and reinstated the arbitrator's award of October 21, 2010.

¶ 25 Affirmed.