

2017 IL App (1st) 162790WC-U

NO. 1-16-2790WC

Order filed: August 11, 2017

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
WORKERS' COMPENSATION COMMISSION DIVISION

THE TOWN OF CICERO,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County.
)	
v.)	No. 16-L-50063
)	
THE ILLINOIS WORKERS' COMPENSATION)	Honorable
COMMISSION, <i>et al.</i> (Dominick Pileggi,)	Ann Collins-Dole,
Appellee).)	Judge, presiding.

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

ORDER

- ¶ 1 *Held:* Appellee's motion to strike appellant's brief is granted and appeal dismissed for appellant's failure to comply with the requirements of Illinois Supreme Court Rule 341(h) (eff. Jan. 1, 2016).
- ¶ 2 The employer, The Town of Cicero, appeals the order of the circuit court of Cook County which affirmed the decision of the Illinois Workers' Compensation Commission

(Commission) that awarded benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2016)) to the claimant, Dominick Pileggi. For the reasons that follow, we grant the request of the claimant, as presented in his brief, to strike the brief of the employer and dismiss this appeal.

¶ 3 The claimant requests in his brief that the employer's brief be stricken and that this court dismiss the employer's appeal for the employer's failure to comply with Illinois Supreme Court Rule 341(h)(6) (eff. Jan. 1, 2016), which provides that the statement of facts in the appellant's brief "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." The claimant argues that the employer's statement of fact "manages to independently violate every single part of this rule." We find this point to be well-taken.

¶ 4 The employer's statement of facts condenses a 619 page record into three double-spaced pages which sets forth agreed factual statements and disputed factual statements supporting the employer's position. However, the presentation of the facts fails to provide this court with an understanding of this case, because it lists some "facts" without identifying others, such as those relied upon by the arbitrator and Commission. In addition, the employer's statement of facts fails to make any reference to the hundreds of pages of medical records or the deposition testimony of the claimant's treating physician. In addition, any discussion of facts related to the claimant's medical condition, while making some reference to the arbitration transcript where testimony concerning the

subject is located, contain no reference to the pages of the record on appeal where the corresponding evidence can be found.

¶ 5 While the claimant focuses on the employer's statement of facts in requesting that this court strike the employer's brief, this court is perhaps more troubled by the deficiencies in the "standard of review" and "argument" sections of the brief. Illinois Supreme Court Rule 341(h)(3) (eff. Jan. 1, 2016) requires that the appellant's brief contain "a concise statement of the applicable standard of review for each issue." The employer's "standard of review" section sets forth, in general terms, the standards of manifest weight, *de novo*, and abuse of discretion, but never relates these standards to the specific issues raised in the brief, leaving the court to guess which standard the employer contends is applicable to which issue. Rather than state its position as to the appropriate standard of review applicable to each issue it raised, the employer decided to "hedge its bets" by stating that the award of temporary total disability and permanent partial disability benefits at issue is "(1) against the manifest weight of the evidence and is clearly erroneous, and is (2) erroneous as a matter of law." We find that setting forth the standard of review for an issue in this manner fails to comport with the requirements of Rule 341(h)(3).

¶ 6 Finally, Illinois Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016) requires that the argument section of the appellant's brief shall contain "the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." The employer's entire argument section contains one citation to the record on appeal and citation to three cases in support of the first point in its brief, with no citation

to cases in support of its second point. “A reviewing court is entitled to have the issues clearly defined and supported by pertinent authority and cohesive arguments; it is not merely a repository into which the appellant may ‘dump the burden of argument and research’ nor is it the obligation of this court to act as an advocate or seek error in the record.” *U.S. Bank v. Lindsey*, 396 Ill. App. 3d 437, 459 (2009) (quoting *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993)).

¶ 7 Clearly, the employer’s brief is in severe violation of Illinois Supreme Court Rule 341(h) (eff. Jan. 1, 2016). “Our ‘rules of procedure are rules and not merely suggestions.’” *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶18 (quoting *Ryan v. Katz*, 234 Ill. App. 3d 536, 537 (1992)). “Consequently, Rule 341’s mandates detailing the form and content of appellate briefs are compulsory.” *Id.* “Where an appellant’s brief contains numerous Rule 341 violations and, in particular, impedes our review of the case at hand because of them, it is our right to strike that brief and dismiss the appeal.” *Id.* In this case, we find that the nature and breadth of the deficiencies in the employer’s brief are such that our review of this case has been significantly impeded and choose to grant the claimant’s request that we strike the employer’s brief and dismiss the appeal.

¶ 8 Appellant’s brief stricken; appeal dismissed.