

2020 IL App (1st) 190303WC-U

No. 1-19-0303WC

Order filed May 8, 2020

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 by Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

WILLIAM W. KRUTAL,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellant,)	Cook County.
)	
v.)	No. 18-L-050384
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION and DBM COTTON JOINT)	
VENTURE,)	
)	Honorable
)	Michael F. Otto,
Defendant-Appellee.)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The order of the circuit court dismissing claimant’s petition for judicial review for lack of jurisdiction is affirmed where claimant failed to file a petition for judicial review within 20 days of receiving notice of the Commission’s decision.

¶ 2

I. Background

¶ 3 Claimant, William W. Krutal, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)), seeking workers' compensation benefits for injuries sustained on July 11, 2006, and July 31, 2006, while working as a union carpenter for DBM Cotton Joint Venture (DBM).¹ Claimant's July 11, 2006, work accident allegedly occurred when a cherry picker crane basket, holding him approximately 30 to 40 feet in the air, shook violently, causing injuries to his right wrist, right elbow and back. Claimant's July 31, 2006, work accident allegedly occurred when he fell on slabs of concrete, landing on his right elbow and back, causing reinjury.

¶ 4 A significant amount of time passed before the matter proceeded to an arbitration hearing on January 18, 2017. The arbitrator filed a decision on April 20, 2017, finding claimant had sustained an accident that arose out of and in the course of employment with DBM; however, claimant's current condition of ill-being was not causally related to the accident.

¶ 5 On May 4, 2017, claimant filed a timely petition for review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). Shortly thereafter, claimant filed a motion to dismiss his attorney and a motion to proceed as a poor

¹ The date claimant filed the application for adjustment of claim is unknown based on the record on the appeal. We do note that there is no indication in the record that claimant untimely filed his application for adjustment of claim. This court notes that the earliest date listed in the table of contents in the record is July 2, 2018. All earlier dates detailed in this order have been obtained from relevant documents contained in the record.

person, pursuant to section 20 of the Act (820 ILCS 305/20 (West 2012)). On August 23, 2017, a hearing was held before Commissioner Brennan in which claimant was instructed on how to perfect review of his case to the Commission. Following explanation, claimant indicated that he understood the requirements set forth.

¶ 6 On November 8, 2017, the parties appeared for a hearing before Commissioner Luskin. At this hearing, counsel for DBM advised Commissioner Luskin that the transcript from the arbitration proceeding was prepared and paid for by the State, pursuant to section 20 of the Act, and DBM had authenticated the transcript. At that time, claimant was ordered to file an authenticated transcript on or before December 1, 2017, pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2010)).

¶ 7 On December 11, 2017, the Commission, on its own motion, issued a rule to show cause order based on claimant's failure to timely file an authenticated transcript of the arbitration proceeding. On December 13, 2017, the matter was heard before Commissioner Mathis. At the time of this hearing, both parties had authenticated the transcript, but claimant had not filed the transcript. Counsel for DBM argued that the Commission had lost jurisdiction when claimant failed to timely file the authenticated transcript by December 1, 2017. Regardless, Commissioner Mathis granted claimant an extension of time to file the transcript by December 22, 2017, and also allowed claimant until March 21, 2018, to file his brief if claimant were to perfect his review. Again, claimant was advised that his petition for review would be dismissed if he did not file the transcript by December 22, 2017.

¶ 8 On January 31, 2018, the Commission denied claimant’s petition for review on jurisdictional grounds for failure to timely file an authenticated transcript on or before December 22, 2017. As such, the Commission adjudicated payment and distribution of the arbitrator’s award. Claimant did not appeal the Commission’s order.

¶ 9 On April 4, 2018, claimant filed a motion to adjudicate payment and distribution of the arbitrator’s award between claimant, filing *pro se*, claimant’s prior attorneys and the Commission. Shortly thereafter, on April 17, 2018, claimant filed a *pro se* motion for reinstatement of the case, penalties and attorney fees. On April 18, 2019, Commissioner Mathis held a hearing on claimant’s motion. At the hearing, claimant, with regard to his request to reinstate his case, asserted that when he subpoenaed certain medical records, he discovered “somebody changed the records” and there were “some suspicious records.” When asked why claimant had failed to timely file an authenticated transcript, claimant responded that he had been receiving multiple letters from collection agencies, had been disputing Medicare and false statements allegedly made by his former counsel. Counsel for DBM opposed claimant’s request to reinstate, asserting the Commission had lost jurisdiction.

¶ 10 On June 18, 2018, the Commission issued its decision finding that it lacked jurisdiction to reinstate claimant’s case, pursuant to section 9020.90(a) of Title 50 of the Illinois Administrative Code (50 Ill. Adm. Code 9020.909(a) (2016)), which governed petitions to reinstate and applied only to “ ‘a cause *** dismissed from the Arbitration call for want of prosecution.’ ” Accordingly, the Commission, citing to *Alvarado v. Industrial Comm’n*, 216 Ill. 2d 547, 553 (2005), determined that it “possessed no authority to reinstate

a petition for review, which had been (correctly) dismissed on jurisdictional grounds,” on January 31, 2018, where claimant had failed to file an authenticated transcript with the Commission.

¶ 11 On July 6, 2018, claimant filed a *pro se* notice of intent to file for review in the circuit court of Cook County, seeking judicial review of the Commission’s January 31, 2018, order. In particular, claimant requested the court to reinstate his case, “Medicare fraud, PSHIC medical records tamper.”

¶ 12 On August 27, 2018, DBM filed a motion to dismiss claimant’s case under section 2-619(a)(1) of the Illinois Code of Civil Procedure (Code) (735 ICLS 5/ 2-619(a)(1) (West 2010)), arguing the circuit court lacked jurisdiction because, to date, claimant had failed to (1) file an authenticated transcript with the Commission and (2) produce a copy of the transcript receipt form.

¶ 13 The circuit court held a hearing on December 18, 2018. During the hearing, claimant argued that the transcript had been timely filed, relying exclusively on three emails claimant had allegedly received from Fakhouri Firm, LLC in October 2018, which, was “a law firm with which [claimant] consulted but never engaged near the final deadline to file the transcript,” according to the court. The court noted that the “emails on their face appear to inform Claimant that a firm employee had filed the transcript.” The court took the matter under advisement.

¶ 14 One month later, on January 15, 2019, the circuit court issued its decision, granting DBM’s motion to dismiss under section 2-619 of the Code, as it related to claimant’s request to review the Commission’s January 31, 2018, order to dismiss claimant’s petition

for review. In support of its decision, the court stated that claimant had failed to file (1) a transcript of the proceedings with the Commission in a timely manner and (2) a timely appeal from the Commission's order dismissing his petition for review, thus, the court lacked subject matter jurisdiction to review.

¶ 15 On February 13, 2019, claimant filed a timely *pro se* notice of appeal.

¶ 16 II. Analysis

¶ 17 On appeal, claimant requests this court to remand his case to the Commission for further action.² In response, DBM requests this court to affirm the orders of the Commission and circuit court finding there was no subject matter jurisdiction based on sections 19(b) and 19(f)(1) of the Act (820 ILCS 305/19(b), 19(f)(1) (West 2010)).

¶ 18 While Illinois courts are courts of general jurisdiction and are presumed to have subject matter jurisdiction, this presumption does not apply to workers' compensation proceedings. *Kavonius v. Industrial Comm'n*, 314 Ill. App. 3d 166, 169 (2000). Rather, on appeal from a decision of the Commission, the circuit court obtains subject matter jurisdiction only if the appellant complies with the statutorily mandated procedures set forth in the Act. *Jones v. Industrial Comm'n*, 188 Ill. 2d 314, 319-20 (1999). "[T]o vest the courts with jurisdiction to review Commission decisions, strict compliance with the provisions of the Act is necessary and must affirmatively appear in the record." *Illinois State Treasurer v. Workers' Comp. Comm'n*, 2015 IL 117418, ¶¶ 14-15 (citing *Arrington*

² This court notes that claimant filed a *pro se* notice of appeal. Claimant's statement of facts is confusing to follow and discusses issues that were not before the circuit court. As such, the intent and meaning of claimant's submitted brief is not readily apparent on the face.

v. Industrial Comm'n, 96 Ill. 2d 505, 508 (1983); *Gruszczyka v. Illinois Workers' Comp. Comm'n*, 2013 IL 114212, ¶ 13; *Daugherty v. Industrial Comm'n*, 99 Ill. 2d 1, 5 (1983)). “Accordingly, our analysis in this case must focus on determining what the Act requires in order to invoke the courts’ jurisdiction and then evaluating whether those requirements have been satisfied.” *Illinois State Treasurer*, 2015 IL 117418, ¶ 15 (citing *Jones*, 188 Ill. 2d at 320).

¶ 19 In addition, claimant failed to file for judicial review within 20 days of receiving the Commission’s January 31, 2018, order dismissing claimant’s petition for review. Instead, the record shows claimant filed for judicial review with the circuit court on July 6, 2018, which was well after the statutory deadline. Accordingly, claimant’s failure to timely file deprived the circuit court of subject matter jurisdiction.

¶ 20 III. Conclusion

¶ 21 For reasons set forth, the judgment of the circuit court of Cook County dismissing claimant’s appeal for lack of jurisdiction is affirmed.

¶ 22 Affirmed.