2024 IL App (1st) 230722WC-U

Workers' Compensation
Commission Division
Order Filed: January 26, 2024

No. 1-23-0722WC

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

SOUTH BERWYN SCHOOL DISTRICT #100,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Cook County
	)	
v.	)	No. 22L50318
	)	
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION *et al.*,	)	Honorable
	)	Daniel P. Duffy,
(Brigid Dowdle, Appellee).	)	Judge, Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Mullen, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: As the circuit court correctly held, it lacked subject-matter jurisdiction to review the remand decision of the Illinois Workers' Compensation Commission, because the school filed its action for judicial review more than 20 days after receiving electronic notification of the decision.

¶ 2 The Illinois Workers' Compensation Commission (Commission) denied a claim by Brigid Dowdle for workers' compensation benefits from South Berwyn School District #100

(school). Dowdle brought an action for judicial review in the Cook County circuit court. The court reversed the Commission's decision and remanded the case to the Commission with directions to make findings on medical causation and disability benefits. On remand, the Commission issued a new decision. The school then brought an action for judicial review. Dowdle moved for a dismissal of the action, claiming a lack of subject-matter jurisdiction. See 735 ILCS 5/2-619(a)(1) (West 2022). The court granted the motion. The school appeals.

¶ 3 Because the school filed its action for judicial review more than 20 days after receiving electronic notification of the decision the Commission issued on remand, we conclude, *de novo*, that the circuit court lacked subject-matter jurisdiction to review the decision. See *Patrick Engineering, Inc. v. City of Naperville*, 2012 IL 113148, ¶ 31 ("Our review of a dismissal under *** section *** 2-619 is *de novo*."). Therefore, we affirm the court's judgment.

¶ 4 I. BACKGROUND

¶ 5 Dowdle claimed that on January 31, 2014, in her capacity as a teacher and basketball coach employed by the school, she sustained injuries to her left leg while playing in a student-teacher basketball game. She filed a claim for worker's compensation benefits.

¶ 6 On November 21, 2018, the Commission denied her claim, concluding that her injury had arisen out of a personal risk and that her claim was barred by the voluntary recreational exception in section 11 of the Workers' Compensation Act (820 ILCS 305/11 (West 2014)).

¶ 7 Dowdle appealed to the circuit court. On January 20, 2021, the court reversed the Commission's decision. The court remanded the case to the Commission "for entry of findings regarding medical, causation[,] and disability benefits the Commission finds due in accordance with this decision [by the court]."

¶ 8 On January 26, 2022, without calling for briefs or scheduling oral arguments, the

Commission issued a decision on remand, making findings and awarding benefits in compliance with the circuit court's order. The Commission e-mailed its remand decision to the parties, who were registered in CompFile, the Commission's electronic filing program.

¶ 9 On May 6, 2022, the school brought the present action, an action for judicial review of the decision the Commission issued on remand. (On May 11, 2022, in Cook County circuit court case No. 18-L-50852—the case in which the circuit court reversed the Commission's initial decision—the school filed a "Motion to Return Case to the Docket for Final Adjudication on Judicial Review." The court's denial of that motion is the subject of a separate appeal, case No. 1-23-0273WC.) Under section 2-619(a)(1) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(1) (West 2022)), Dowdle moved for a dismissal of the present action, on jurisdictional grounds, because the action had not been "commenced within 20 days of the receipt of notice of the decision of the Commission" (820 ILCS 305/19(f)(1) (West 2022)). Dowdle claimed that the circuit court lacked subject-matter jurisdiction because the school failed to file its action for judicial review within 20 days after electronically receiving the remand decision of the Commission. Agreeing that the school had missed this statutory deadline, the court granted Dowdle's motion for dismissal.

¶ 10 This appeal by the school followed.

¶ 11 II. ANALYSIS

¶ 12 A. The Lack of a Statutory Deadline for the Commission's Issuance of a Decision on Remand

¶ 13 The school maintains that the Commission's decision on remand is "void and without legal effect" because, according to the school, there was a 60-day deadline for issuing the decision and the Commission missed the deadline. The school reasons along these lines. Section 19(e) of the Workers' Compensation Act provides, "Decisions shall be filed within 60 days after the Statement of Exceptions and Supporting Brief and Response thereto are required to be filed or

oral argument whichever is later." *Id.* § 19(e). The school concedes that "[s]ection 19(e) is silent regarding the Commission's duties and obligations for remand orders from the Circuit *** Court." By that concession, the school appears to admit that the deadline in the quoted provision of section 19(e) applies to decisions the Commission must issue on review of the arbitrator's recommended decision (to which a party would file a statement of exceptions), not to decisions the Commission must issue on remand from the circuit court. Nevertheless, the school argues that sections 9060.20(b) and 9040.30 of the Commission's rules (50 Ill. Adm. Code 9060.20(b), 9040.30 (2016)) make the 60-day deadline in section 19(e) applicable to decisions the Commission must issue on remand.

¶ 14 We interpret administrative rules *de novo*, the same way we interpret statutes. See *People ex rel. Madigan v. Illinois Commerce Comm'n*, 231 Ill. 2d 370, 380 (2008). One difficulty with the school's reliance on sections 9060.20(b) and 9040.30 is that those sections say nothing about when the Commission must issue a remand decision. Section 9060.20(b) provides, "Upon receipt of an order from a reviewing court, the Commission shall docket the order and set the matter for hearing in the same manner as Petitions for Review [of an arbitration decision]." 50 Ill. Adm. Code 9060.20(b) (2016). Section 9040.30 provides, "The Commission will give notice to the parties of the date, place and time set for a Review hearing. The notice will be given at least 10 days prior to the hearing." 50 Ill. Adm. Code 9040.30 (2016). Thus, sections 9060.20(b) and 9040.30 discuss docketing the reviewing court's order and setting and noticing a hearing, but they impose no deadline for the Commission to issue a decision after the hearing.

¶ 15 Dowdle points out perhaps a more fundamental flaw in the school's voidness argument. Even if sections 9060.20(b) and 9040.30 could be interpreted as impliedly imposing upon the Commission a deadline for issuing a decision on remand, those sections are in the Illinois

Administrative Code, not in the Workers' Compensation Act. "[W]hen an administrative agency acts outside its specific *statutory* authority, it acts without 'jurisdiction,' " and its decision "is void." (Emphasis added.) *Alvarado v. Industrial Comm'n*, 216 Ill. 2d 547, 553-54 (2005). On remand from the circuit court, the Commission has the statutory authority to issue a new decision. See 820 ILCS 305/19(f) (West 2022) (the circuit court "may remand the cause to the Commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper"). There appears to be no statute withdrawing that authority from the Commission upon the passage of a certain amount of time after the remand. Therefore, the school is incorrect that the Commission's decision on remand is "void and without legal effect" because of the expiration of a supposed deadline. The Commission has no statutory deadline for issuing a decision on remand. That such a deadline might be advisable (as the school argues) does not make it exist.

¶ 16 The school, however, had a statutory deadline for seeking judicial review of the decision the Commission issued on remand: "within 20 days of the receipt of notice of the decision of the Commission." *Id.* § 19(f)(1). If the school had commenced an action for judicial review within 20 days after receiving notice of the Commission's decision on remand, the school could have challenged the Commission's asserted noncompliance with sections 9060.20(b) and 9040.30 of its own rules. The consequence of missing this 20-day deadline is that—despite the school's objectionable lack of an opportunity to be heard on medical causation and disability benefits—"[t]he decision of the Commission *** shall *** be conclusive." *Id.* § 19(f).

¶ 17 B. The Legal Effectiveness of the Electronic Notice

¶ 18 Section 19(f)(1) of the Workers' Compensation Act provides, "A proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the

Commission." *Id.* § 19(f)(1). The school argues that "receipt of notice" is a "legal term of art" meaning "the date that personal service is completed by hand delivering a copy of the document to [the] appropriate person or the date that a document is delivered by certified mail." (Emphases omitted.) However, the online source that the school cites in support of that argument (https://lawinsider.com/dictionary/receipt-of-notice) is not really a dictionary. Instead, this online source is, by its own description, "a subscription based contract database and resource center that helps *** lawyers and business owners draft and negotiate contracts more effectively." https://www.lawinsider.com/about. This website does not establish that "receipt of notice" is generally a legal term of art. It merely establishes that, in some of the sources that this website has vacuumed up, "receipt of notice" is specially defined.

¶ 19 The Workers' Compensation Act (820 ILCS 305/1 *et seq.* (West 2022)), by contrast, does not specially define "receipt of notice." "In the absence of statutory definitions indicating a different legislative intent, words in a statute are to be given their ordinary and popularly understood meaning," which can be found in a dictionary. (Internal quotation marks omitted.) *People ex rel. Daley v. Datacom Systems Corp.*, 146 Ill. 2d 1, 15 (1991). When we give the statutory language its ordinary meaning, "receipt of notice of the decision of the Commission" (820 ILCS 305/19(f)(1) (West 2022)) means coming into possession of a written announcement that the Commission has issued a decision. See Merriam-Webster's Collegiate Dictionary 848 (11th ed. 2020) (notice); *id.* at 1038 (receive).

¶ 20 According to the school, not just any method of delivering the notice will suffice. The school argues:

> "[A]n examination of the various provisions of the [Workers' Compensation] Act, and in particular, Section 19(i) [(820 ILCS 305/19(i) (West 2022))], as well [as]

> the Commission's prior practices confirms that parties shall receive Commission notices, including notices of Commission decisions, either through personal service[ ] or certified mail to prove the date of 'receipt of notice' to trigger the 20-day time limitation for filing judicial reviews under Section 19(f)(1)."

¶ 21 To be accurate, though, section 19(i) speaks of registered mail, not certified mail:

> "Each party, upon taking any proceedings or steps whatsoever before any Arbitrator, Commission[,] or court, shall file with the Commission his address, or the name and address of any agent upon whom all notices to be given to such party shall be served, either personally or by *registered* mail, addressed to such party or agent at the last address so filed with the Commission." (Emphasis added.) 820 ILCS 305/19(i) (West 2022).

Registered mail and certified mail tend to get blurred together in the school's brief. On the one hand, the school argues that the "[p]rovisions of the [Workers' Compensation] Act, and specifically Section 19(i), require the Commission to notify parties of decisions either through personal delivery or through registered mail." On the other hand, the school argues, "A thorough reading of the provisions of the [Workers' Compensation] Act proves the Commission is required to provide notices of decision through certified mail." Because registered mail and certified mail are not the same, these arguments contradict one another. See https://faq.usps.com/s/article/Registered-Mail-The-Basics; https://faq.usps.com/s/article/Certified-Mail-The-Basics; *In re Marriage of Lippert*, 2022 IL App (1st) 220536-U, ¶ 29 ("It is well settled that a court may take judicial notice of information on a government website."). Since section 19 uses both terms, "certified mail" and "registered mail" (820 ILCS 305/19(b-1), (i) (West 2022)), the legislature must have intended those terms to have

different meanings—as, for that matter, the United States Postal Service intends. See *Carver v. Bond/Fayette/Effingham Regional Board of School Trustees*, 146 Ill. 2d 347, 353 (1992) ("When the legislature uses certain language in one part of a statute and different language in another, we may assume different meanings were intended.").

¶ 22 Setting aside this confusion of certified mail with registered mail, one of the arguments the school makes is that section 19(i) "require[s] the Commission to notify parties of decisions either through personal delivery or through registered mail." This argument rests on a reasonable interpretation of section 19(i), which commands that "all notices to be given to [a] party shall be served, either personally or by registered mail." 820 ILCS 305/19(i) (West 2022). When, on remand, the Commission issues a decision, notice of the decision must be given to the parties. Without "receipt of notice," the 20-day period for seeking judicial review would never run. *Id.* § 19(f)(1). It follows that "*all* notices to be given to [a] party" includes the notice of a decision the Commission issues on remand. (Emphasis added.) *Id.* § 19(i). Statutes "are to be construed so as to give effect to each word, clause, and sentence, so that no word, clause, or sentence shall be considered superfluous or void," and we should attribute to "each word and sentence its ordinary and accepted meaning." (Internal quotation marks omitted.) *Vaught v. Industrial Comm'n*, 52 Ill. 2d 158, 165 (1972). Thus, the word "all" in section 19(i) has significance—and it means all. As part of the set of "all notices to be given to [a] party," the notice of a remand decision of the Commission "shall be served[ ] either personally or by registered mail." 820 ILCS 305/19(i) (West 2022). In this case, the notice of the remand decision was delivered to the school's designated agent, its attorney, by neither method. Instead, the notice was e-mailed to the school's attorney.

¶ 23 As the school acknowledges, the Commission has "adopted and implemented an

E-Notification system for notifications of its decision to parties." The school concedes that, "[i]n implementing these rules, the Commission utilized and applied authority under the Uniform Electronic Transaction[s] Act" (815 ILCS 333/1 *et seq.* (West 2022)). Dowdle points out that, under section 8(b)(2) of the Uniform Electronic Transactions Act (*id.* § 333/8(b)(2)), parties may agree to the electronic transmission of records that otherwise would have to be sent by first-class mail (including registered mail)—and that the school, as a subscriber to the electronic filing program, so agreed. Section 8(b)(2) provides as follows:

> "(b) If a law other than this Act requires a record *** to be sent *** by a specified method ***, the following rules apply:
>
> (2) *Except as otherwise provided in subsection (d)(2)*, the record must be sent *** by the method specified in the other law." (Emphasis added.) *Id.*

Section 8(d)(2) of the Uniform Electronic Transactions Act in turn provides that "a requirement under a law other than this Act to send *** a record by first-class mail may be varied by agreement to the extent permitted by the other law." *Id.* § 8(d)(2). Section 9015.50(c) of the Commission's rules provides, "Subscribers consent to receive all communication from the Commission, including but not limited to notice of hearing, orders, decisions, or any general correspondence via electronic filing. The Commission may also issue any Commission document via e-mail." 50 Ill. Adm. Code 9015.50(c) (2016).

¶ 24 The school offers no rebuttal to Dowdle's argument that, by subscribing to CompFile, the school agreed to receive notices and other communications electronically. It does not appear that, in the proceedings before the Commission, the school ever challenged the electronic filing procedures. See *R.D. Masonry, Inc. v. Industrial Comm'n*, 215 Ill. 2d 397, 414

(2005). The school acknowledged to the circuit court, "Under the Commission's Electronic Filing Rules, subscribers to the electronic system were required to agree to receive all communications from the Commission, including but not limited to Notices of Hearings, Orders, and Decisions [citation]." Generally, parties may waive statutory rights, and to our knowledge, no provision of the Workers' Compensation Act prohibits parties from agreeing to the electronic delivery of documents. In return for the convenience, efficiency, and economy of filing documents with the Commission electronically, the school agreed to receive documents from the Commission electronically. See 50 Ill. Adm. Code 9015.50(c) (2016).

¶ 25 In the circuit court, the school's attorney provided a printout from his e-mail screen showing that he received the remand decision electronically on January 26, 2022. The school admits that "the school's attorney received the e-mail notification from the Commission regarding the remand decision." The school's insistence that the e-mail did not count is hard to reconcile with the school's action for judicial review of the attachment in the e-mail. The electronic transmission of the remand decision to the school's attorney fit within the plain meaning of the statutory phrase "receipt of notice of the decision of the Commission." 820 ILCS 305/19(f)(1) (West 2020). Consequently, this electronic transmission caused the 20-day clock in section 19(f)(1) to begin ticking. The school waited until May 2022 to file for review—more than 20 days after its attorney's electronic receipt of the notice of the remand decision—thereby missing the jurisdictional deadline for seeking judicial review. See *Jones v. Industrial Comm'n*, 188 Ill. 2d 314, 321 (1999) ("[T]he time requirements for initiating an appeal to the circuit court under section 19(f)(1) are mandatory and jurisdictional.").

¶ 26 The school objects that, just because the e-mail landed in its attorney's computer, that does not mean its attorney read either the e-mail or the attached decision. The school argues,

"[T]he delivery of the e-mail to the e-mail address does not prove receipt. It does not prove the notification was read; it does not prove the link was opened." The school cites section 9015.20(c) of the Commission's rules, a section providing as follows: "Electronic documents containing links to material either within the filed document or external to the document are for convenience purposes only. The external material behind the link is not considered part of the filing or basic record." 50 Ill. Adm. Code 9015.20(c) (2016). Thus, by the school's reasoning, when on January 26, 2022, its attorney received an e-mail containing a link to the Commission's decision, its attorney did not thereby receive the decision, for, to quote section 9015.20(c), "[t]he external material behind the link is not considered part of the filing or basic record." *Id.*

¶ 27 Nevertheless, when considered in the context of the rest of section 9015.20 (*id.* § 9015.20), section 9015.20(c) appears to be directed at the parties, not at the Commission. Section 9015.20 is titled "Format," and its purpose is to prescribe the format of electronic documents that the parties submit to the Commission. The section begins, "Documents must be submitted in the format prescribed by the Commission or in PDF format"—that is to say, documents "submitted" by the parties. *Id.* § 9015.20(a). Section 9015.20 ends with the warning, "Documents not complying with [Uniform Electronic Transactions Act [815 ILCS 333/1 *et seq.* (West 2016))] or this Part will be rejected." 50 Ill. Adm. Code 9015.20(e) (2016). Presumably, the Commission would not reject its own documents, any more than it would "submit" documents to the parties. Understood in its entirety, then, section 9015.20, including subsection (c), applies to electronic documents that the parties submit to the Commission, not to electronic documents that the Commission issues.

¶ 28 Even if section 9015.20(c) applied to the Commission, it would not have prevented the 20-day period from beginning to run on January 26, 2022. Under the plain terms of

section 19(f)(1) of the Workers' Compensation Act, it is not the receipt of the *decision* of the Commission but "the receipt of *notice of* the decision of the Commission" that causes the 20 days to begin counting down. (Emphasis added.) 820 ILCS 305/19(f)(1) (West 2022). Even if, on the authority of section 9015.20(c), we disregarded the link that the e-mail of January 26, 2022, provided to the Commission's decision, the e-mail was a notice of the decision. Even if the e-mail was never opened, its subject line announced that the Commission had made a decision in this workers' compensation case, identifying the case by number.

¶ 29 In the statement of facts of its brief, the school acknowledges that its "attorney received the e-mail notification from the Commission regarding the remand decision." Then the school cites the pages of the common law record where the e-mail notification can be found. As can be seen in the cited pages, the date of the e-mail is January 26, 2022. Under section 9015.50(d) of the Commisson's rules, "[e]-service shall be deemed complete as of the filed date and time listed by the e-file system." 50 Ill. Adm. Code 9015.50(d) (2016). The sender of the e-mail is CompFile Notifications. The subject line gives the number of the remanded case, "14WC006485," and plainly announces, "A Decision has been filed in CompFile." The e-mail goes on to say:

> "This email is to inform you that a decision has been filed in the case below.
>
> CASE #: 14WC006485
>
> CASE NAME: DOWDLE, BRIGID v. SOUTH BERWYN S.D. #100
>
> DECISION TYPE: Order
>
> DATE FILED: 01/26/2022
>
> Please log into CompFile and then click the following link to view the decision

***."

Thus, even if the school's attorney were excused from clicking the link—which, as Dowdle aptly remarks, would be comparable to excusing him from opening a mailed envelope containing the Commission's decision—the e-mail itself, in its subject line and in its body, was a "notice of the decision of the Commission." 820 ILCS 305/19(f)(1) (West 2022). The attorney's receipt of that notice on January 26, 2022, began the running of the 20-day period for seeking judicial review.

¶ 30 On May 6, 2022, by filing with the circuit court a request for a summons, the school brought this action for judicial review of the remand decision. See *Gruszeczka v. Illinois Workers' Compensation Comm'n*, 2013 IL 114212, ¶ 23 ("[A] request for summons under section 19(f) is how one commences an appeal of the Commission's decision to the circuit court."). May 6, 2022, was 100 days after January 26, 2022, when the school's attorney electronically received notification of the Commission's decision. The school missed the 20-day deadline for filing a request for a summons—a request that "is the functional equivalent of a notice of appeal" to the circuit court. *Id.* As a result, the decision the Commission issued on remand became "conclusive" (820 ILCS 305/19(f) (West 2022)), and the circuit court lacked subject-matter jurisdiction to review the decision, as the court rightly held (see *Chambers v. Industrial Comm'n*, 132 Ill. App. 3d 891, 893 (1985)).

¶ 31 C. The Lack of a Supporting Affidavit for the Section 2-619(a)(1) Motion to Dismiss

¶ 32 According to the school, one of the reasons why the circuit court should have denied Dowdle's motion for dismissal was the lack of a substantiating affidavit. Dowdle did not attach to her motion an affidavit proving the date when the school received notice of the decision the Commission issued on remand. The school points out that just because the Commission issued the decision on January 26, 2022, it does not necessarily follow that the school received notice of the

decision on that date.

¶ 33 The record shows, however, that the school, by its own admission, received the remand decision on January 26, 2022. "We consider, in our review under section 2-619, admissions in the record ***." *Cosman v. Ford Motor Co.*, 285 Ill. App. 3d 250, 261 (1996). In her amended motion for dismissal, Dowdle argued:

> "[The school] has admitted receiving notice of the Commission's January 26, 2022[,] decision via e-mail, and even attached screenshots of said e[-]mail as Exhibits E and F to its response to Defendant's initial motion to dismiss. The date on which the Commission's decision was transmitted from CompFile to counsel for Plaintiff is clearly visible in each screenshot: January 26, 2022. (Def. Response To Mot. To Dismiss Ex. E, F.)."

This argument in Dowdle's amended motion for dismissal appears to be factually correct. Therefore, in our *de novo* review (see *id.* at 254), we find that Dowdle's amended motion was adequately substantiated by admissions in the record.

¶ 34 III. CONCLUSION

¶ 35 For the foregoing reasons, we affirm the circuit court's judgment.

¶ 36 Affirmed.