

2019 IL App (2d) 180857WC-U
No. 2-18-0857WC
Order filed July 3, 2019

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
SECOND DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

MEIJER,)	Appeal from the Circuit court
)	of Kane County
Appellant,)	
)	
v.)	No. 18-MR-586
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION <i>et al.</i>)	Honorable
)	Kevin T. Busch,
(Jeffrey Stoner, 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:* We affirm the circuit court's order dismissing the employer's petition for review for lack of subject-matter jurisdiction.

¶ 2 The employer, Meijer, appeals from an order of the circuit court of Kane County dismissing its petition for judicial review of a decision of the Illinois Workers' Compensation Commission (Commission). The court found it lacked subject-matter jurisdiction to consider the petition because Meijer failed to file a timely appeal bond in compliance with section 19(f)(2) of

the Illinois Workers' Compensation Act (Act) (820 ILCS 305/19(f)(2) (West 2016)). For the following reasons, we affirm.

¶ 3 BACKGROUND

¶ 4 On November 15, 2010, the claimant, Jeffrey Stoner, filed an application for adjustment of claim seeking benefits under the Act (820 ILCS 305/1 *et seq.* (West 2010)) for injuries he allegedly sustained to his lower back on October 20, 2010, while working for Meijer as a shipping and receiving clerk.

¶ 5 On November 21, 2016, following two arbitration hearings, the arbitrator issued a decision denying the claimant benefits under the Act. In doing so, the arbitrator found that the claimant failed to prove he suffered accidental injuries arising out of and in the course of his employment with Meijer on October 20, 2010. The arbitrator also found that the claimant failed to prove a causal connection between his work activities and any condition of ill-being in his lower back. The claimant filed a petition for review with the Commission.

¶ 6 On April 18, 2018, the Commission issued a decision reversing the arbitrator's decision and awarding the claimant benefits for his claim. On May 2, 2018, Meijer filed with the Commission a Notice of Intent to File for Review (notice of intent).

¶ 7 On May 9, 2018, Meijer e-filed with the clerk of the circuit court the notice of intent file-stamped by the Commission, along with a document titled "Written Request for Summons – Workers' Compensation Review" (request for summons).¹ In its request for summons, Meijer

¹ In its brief to this court, Meijer notes that the written request for summons was file-stamped on May 10, 2018; however, Meijer asserts, and the claimant does not dispute, that the request for summons was e-filed with the notice of intent on May 9, 2018.

alleged it had received the Commission's decision on April 20, 2018. The clerk signed, but did not issue, the summonses on May 11, 2018.

¶ 8 On June 18, 2018, the clerk of the circuit court file-stamped a document titled "Bond-Certiorari-Workmen's Compensation" (appeal bond). The document, dated May 3, 2018, was signed by Meijer's Vice President, Keith Morrison, as principal, and a member of Westchester Fire Insurance Company, Susan Welsh, as surety. The obligation of the appeal bond was limited to \$35,700. Also on June 18, 2018, the clerk issued the summonses.

¶ 9 On July 18, 2018, the claimant filed a motion to dismiss Meijer's petition for lack of subject-matter jurisdiction alleging as follows. The parties received the Commission's decision on April 19, 2018. Meijer filed a timely request to issue summons on May 9, 2018, which was the last date allowed for such filing pursuant to section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2016)). However, the claimant, relying on *Vallis Wynngroff Business Forms, Inc. v. Workers' Compensation Comm'n*, 402 Ill. App. 3d 91 (2010), argued that Meijer failed to file with the clerk of the circuit court an appeal bond at the time it filed its request for summons, as required by section 19(f)(2) of the Act (820 ILCS 305/19(f)(2) (West 2016)). Additionally, the claimant, relying on *Residential Carpentry, Inc. v. Kennedy*, 377 Ill. App. 3d 499 (2007), argued that, because section 19(f)(2) requires an appeal bond to be filed at the time the written request for summons is presented to the clerk, Meijer was required to file the appeal bond within 20 days of its receipt of the Commission's decision but failed to do so. As such, the claimant asserted that Meijer failed to strictly comply with the requirements of section 19(f)(2), thereby, depriving the court of subject-matter jurisdiction over the case. Attached to the claimant's motion to dismiss was a copy of the appeal bond, which was file-stamped on June 18, 2018.

¶ 10 On September 12, 2018, Meijer filed a response to the claimant's motion to dismiss alleging as follows. After filing its notice of intent with the Commission on May 2, 2018,

Meijer's counsel contacted the clerk of the circuit court and requested additional information regarding the e-filing of appeal bonds, given that mandatory e-filing was a new procedure implemented in Kane County. Two clerks advised Meijer's counsel that bonds did not need to be e-filed and could be mailed with all other documents following the e-filing. Meijer's corporate office sent the appeal bond to counsel via Federal Express on May 4, 2018, for next-day delivery. Federal Express lost the bond and it was not delivered to counsel until May 8, 2018, at 4:45 p.m. On May 9, 2018, Meijer e-filed the notice of intent with the clerk, along with the request for summons. On May 11, 2018, Meijer's counsel mailed the original summons and appeal bond to the clerk's office.

¶ 11 Meijer argued that the circuit court had subject-matter jurisdiction for the following reasons: (1) it complied with the jurisdictional requirements of section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2016)) by filing the notice of intent and request for summons within 20 days of its receipt of the Commission's decision; (2) section 19(f)(2) of the Act (820 ILCS 305/19(f)(2) (West 2016)) does not require an appeal bond to be filed within the same 20-day time period; (3) the filing of an appeal bond is mandatory, but not jurisdictional; (4) the bond, dated May 3, 2018, complied with the requirements of section 19(f)(2) and satisfied the mandates of Supreme Court Rule 103(b) (eff. July 1 2007) for timely issuance of a summons; (5) the cases cited by the claimant were incorrectly decided; and (6) dismissing the appeal would lead to an unjust outcome.

¶ 12 In support, Meijer relied on *Glasco Electric Co. v. Department of Revenue*, 86 Ill. 2d 346 (1981), asserting that the filing of appeal bonds are mandatory unless the statute granting subject-matter jurisdiction expressly provides the filing of a bond is jurisdictional, and that a mandatory provision describes the consequences for failing to follow a statute's requirements. Meijer argued that the statute at issue in *Glasco*, which provided for the dismissal of a complaint

as consequence of a party's failure file bond, was comparable to section 19(f)(2) of the Act (820 ILCS 305/19(f)(2) (West 2016)), which provides that no summons shall issue until the bond is filed, because the effect of a failure to issue summons is dismissal of the complaint. Meijer, presuming success on its argument that the filing of an appeal bond was mandatory, further argued that the appeal bond was timely filed pursuant to section 19(f)(2) and Illinois Supreme Court Rule 103(b) (eff. July 1, 2007).

¶ 13 On September 17, 2018, following a hearing, the circuit court entered an order dismissing the matter with prejudice, concluding that it lacked subject-matter jurisdiction due to Meijer's failure to file the bond within the mandatory 20-day time frame. Meijer appeals.

¶ 14 ANALYSIS

¶ 15 On appeal, the parties do not dispute that Meijer failed to file an appeal bond within 20 days of its receipt of the Commission's decision. The parties, instead, dispute whether this is a requirement to give the circuit court subject-matter jurisdiction under section 19(f) of the Act (820 ILCS 305/19(f) (West 2016)).

¶ 16 The question of whether a circuit court has jurisdiction to review an administrative decision presents a question of law, which this court reviews *de novo*. *Illinois State Treasurer v. Illinois Workers' Compensation Comm'n*, 2015 IL 117418, ¶ 13. In addition, *de novo* review is appropriate where, as here, our resolution of the jurisdictional question depends upon our interpretation of section 19(f) of the Act, which also presents a question of law. *Id.*

¶ 17 Although Illinois circuit courts are courts of general jurisdiction and enjoy a presumption of subject-matter jurisdiction, such presumption does not extend to workers' compensation proceedings. *Kavonius v. Industrial Comm'n*, 314 Ill. App. 3d 166, 169 (2000). In workers' compensation proceedings, circuit courts exercise "special statutory jurisdiction" and strict compliance with the statute is required to vest the court with subject-matter jurisdiction. *Id.*

¶ 18 Section 19(f) of the Act sets forth the procedural requirements for a party seeking judicial review of the Commission’s decisions. Section 19(f)(1) generally provides that, in cases subject to judicial review, a circuit court “shall by summons to the Commission have power to review all questions of law and fact presented by such record.” 820 ILCS 305/19(f)(1) (West 2016). Section 19(f)(1) requires that a proceeding for review be commenced within 20 days of the receipt of notice of the Commission’s decision. 820 ILCS 305/19(f)(1) (West 2016). Section 19(f)(1) also requires a petitioner, within the same 20-day period, to file with the clerk of the circuit court a written request for summons and exhibit to the clerk either proof of filing with the Commission a notice of intent to file for judicial review or an affidavit of the attorney indicating that written notice of intent to file for review has been given to the Commission. *Id.*; *Conway v. Illinois Workers’ Compensation Commission*, 2019 IL App (4th) 180285WC, ¶ 21. Section 19(f)(2) provides, in pertinent part, as follows:

“No summons shall issue unless the one against whom the Commission shall have rendered an award for the payment of money shall upon the filing of his written request for such summons file with the clerk of the court a bond conditioned that if he shall not successfully prosecute the review, he will pay the award and costs of the proceeding in the courts.” 820 ILCS 305/19(f)(2) (West 2016).

¶ 19 Meijer contends that it “fully complied with the jurisdictional requirements of the Act” by filing both a request for summons and notice of intent within the 20-day time period, and that it was not required to file an appeal bond within the same 20-day period to confer jurisdiction on the circuit court. In support, Meijer argues that, unlike section 19(f)(1), section 19(f)(2) is a mandatory provision as opposed to a jurisdictional requirement. Meijer also argues that, unlike section 19(f)(1), the plain language of section 19(f)(2) does not require that an appeal bond be filed within the 20-day review period. We disagree.

¶ 20 As an initial matter, we find Meijer’s contention—that it “fully complied with the jurisdictional requirements of the Act” by timely filing a request for summons and a notice of intent—completely meritless. As the claimant correctly notes, this court has consistently held that a party must strictly comply with the bond requirements of section 19(f)(2) in order to confer jurisdiction upon the circuit court to review a decision of the Commission. *Residential Carpentry, Inc.*, 377 Ill. App. 3d at 503; *Vallis Wyngroff Business Forms, Inc.*, 402 Ill. App. 3d at 93-94; *Kavonius v. Industrial Com’n*, 314 Ill. App. 3d 166, 169 (2000). Moreover, we note our supreme court has since concluded that the filing of an appeal bond in accordance with the requirements set forth in section 19(f)(2) is a prerequisite to invoking a circuit court’s subject-matter jurisdiction. See *Illinois State Treasurer*, 2015 IL 117418, ¶ 18 (in the absence of an appeal bond which conforms to section 19(f)(2), a circuit court has no jurisdiction to review the Commission’s decision and the appeal must be dismissed). Thus, in addition to complying with the requirements of section 19(f)(1), Meijer was required to comply with the bond requirements of section 19(f)(2) in order to vest the court with subject-matter jurisdiction.

¶ 21 We also reject Meijer’s argument that section 19(f)(2) does not require that an appeal bond be filed within the 20-day review period. As the claimant notes, and Meijer acknowledges, this court has previously interpreted section 19(f)(2) as requiring an appeal bond to be filed within the 20-day time period. See *Residential Carpentry, Inc.*, 377 Ill. App. 3d at 503 (“Because the appeal bond must be filed at the time the written request for summons is presented to the clerk of the court, it too must be filed within the 20-day deadline.”); see also *Berryman Equipment v. Industrial Comm’n*, 276 Ill. App. 3d 76 (1995) (“Because employer did not attempt to either sign the bond or submit a signed bond in place of the unsigned [bond] within the 20-day period, the circuit court had no subject-matter jurisdiction.”). While Meijer disagrees with this interpretation and asks this court to revisit the requirement, we decline its invitation to do so.

Instead, we adhere to our previous decisions and conclude that an appeal bond must either be filed with the clerk or be placed in the mail (see *Gruszczyka v. Illinois Workers' Compensation Comm'n*, 2013 IL 114212, ¶ 28) within 20 days of receiving the Commission's decision in order to vest the court with subject-matter jurisdiction.

¶ 22 Here, Meijer claims that it received the Commission's decision on April 20, 2018. The request for summons and notice of intent were timely filed on May 9, 2018. Although the appeal bond was dated May 3, 2018, Meijer acknowledges that it did not file the bond with the request for summons and notice of intent. Meijer also acknowledges that it did not place the appeal bond in the mail until May 11, 2018, the day after the expiration of the 20-day review period. Because Meijer failed to strictly comply with section 19(f)(2), the circuit court lacked subject-matter jurisdiction.

¶ 23 Therefore, the circuit court properly dismissed Meijer's petition for review for lack of subject-matter jurisdiction.

¶ 24 **CONCLUSION**

¶ 25 For the foregoing reasons, we affirm the judgment of the circuit court of Kane County dismissing Meijer's petition for lack of jurisdiction.

¶ 26 Affirmed.