



Workers' Compensation Report

Amber D. Cameron*

Heyl, Royster, Voelker & Allen, P.C., Edwardsville

Illinois Appellate Court First District Clarifies Notice in the Era of CompFile

Recently, the Illinois Appellate Court First District has examined the growing pains inherent in the transition from a hard copy-based filing system to a digital one. In *South Berwyn Sch. Dist. #100 v. Illinois Workers' Compensation Comm'n*, 2024 IL App (1st) 230722WC-U, the appellate court issued a Rule 23 order and provided insight into how the Commission and Illinois courts should view the issue of proper notice in the digital age.

As a brief refresher, orders filed under Illinois Supreme Court Rule 23(b) do not set a legal precedent except in limited circumstances. *See* Ill. Sup. Ct. R. 23 (2023). It is effectively a way for the appellate court to decide the single case before it without setting precedent for future cases. While a Rule 23(b) order is not precedent, those entered after January 1, 2021, can be cited to persuade future courts to follow the same reasoning. Ill. Sup. Ct. R. 23(e)(1).

Effective Electronic Notice

The Illinois Workers' Compensation Commission adopted a cloud-based e-filing system for managing workers' compensation cases in 2020 that became fully operational in April of 2021. With the implementation of CompFile, filing and case management before the Commission became paperless and includes an electronic system for notifications of its decision to parties. The Commission utilized and applied authority under the Uniform Electronic Transactions Act to implement CompFile and allow for the electronic transmission of records under its rules. 815 ILCS 333/1, *et seq.* The Commission's rules provide, "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). By registering and subscribing with CompFile, parties agree to the electronic transmission of records that otherwise would have been sent by first-class or registered mail.

Background

In *South Berwyn Sch. Dist.*, the First District decided a case that hinged on when the clock starts running to file an appeal of the court's decision. The petitioner Brigid Dowdle sustained injury during a student-teacher basketball game. 2024 IL App (1st) 230722WC-U, ¶ 5. The Commission denied the petitioner's claim for workers' compensation benefits and concluded the claim was barred by the recreational exception in the Illinois Workers Compensation Act ("Act"). *Id.* ¶ 6. Section 11 of the Act makes clear that injuries which occur while participating in voluntary recreational programs, such as exhibition games and company picnics, do not arise out of and in the course of employment. 820 ILCS § 305/11. Dowdle appealed the Commission's decision to the circuit court, and on January 20, 2021, the circuit court reversed the

Commission’s decision and remanded it back with instructions to enter findings on medical causation and disability benefits. *Id.* ¶ 7. On January 26, 2022, the Commission issued a decision, without calling for briefs or hearing oral arguments, and emailed the decision to the parties via the CompFile system. *Id.* ¶ 8. The school district appealed the Commission’s decision, but not until May 11, 2022, 105 days after the notice of the decision was emailed via CompFile to the parties. *Id.* ¶ 9. Section 19(f)(1) of the Act states, “[a] proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission.” 820 ILCS § 305/19(f). Dowdle filed a Motion to Dismiss the school district’s appeal, alleging the appeal was not filed within twenty (20) days after electronically receiving notice of the decision, as required by Section 19(f) of the Act; therefore, the circuit court did not have jurisdiction over the case. *Id.* ¶ 16.

Appellate Court Findings

The appellate court confirmed the Act imposed a statutory deadline for the school district to seek judicial review of the Commission’s decision within 20 days of receipt of notice of the decision. *Id.* ¶ 16. However, *when* the school district’s 20-day deadline started to seek judicial review of the Commission decision required assessment. The Act plainly states “[a] proceeding for review shall be commenced within twenty days of the receipt of notice of the decision of the Commission.” 820 ILCS § 305/19(f). But, the Act does not define what constitutes “receipt of notice.” In this case, the attorneys for both parties received notice via e-mail through the CompFile system, with a subject line announcing that the Commission had made a decision in the case and identifying the case by number. *Id.* ¶¶ 28-29. The email also contained an embedded link to the Commission’s decision. *Id.*

The school district argued that the Act, as well as the Commission’s prior practice, dictate notice was required to be delivered either by personal service or certified mail. *See* 820 ILCS § 305/19(i). The school district further cited the Illinois Administrative Code to argue that, even if its attorney received an e-mail containing a link to the Commission’s decision, its attorney did not receive the decision, because “[t]he external material behind the link is not considered part of the filing or basic record.” *Id.* ¶ 26; *See* 50 Ill. Adm. Code 9015.20(c) (2016). Essentially, the school district argued that because its attorney did not receive the notice personally, or through certified mail, the clock for appealing never started running, and therefore, the appeal was timely.

Dowdle and her counsel argued the Commission adopted and implemented a cloud-based electronic filing and case management system in 2020 called CompFile to allow paperless filing and processing of court documents for workers’ compensation cases in Illinois. *Id.* ¶ 24. Dowdle also argued that by subscribing to CompFile, the parties agreed to receive notices and other communications electronically and that receipt of an email notifying the parties a decision has been rendered by the Commission fits within the plain language of the phrase “receipt of notice of the decision of the Commission” as used in the Act. *Id.* Further, the subject line of the email proclaimed: “A Decision has been filed in CompFile,” and the first sentence in the body of the email stated “[t]his email is to inform you that a decision has been filed in the case below” and proceeded to identify the case. *Id.* ¶ 29. The court adopted Dowdle’s arguments and reasoned that when the school district’s attorney received the email notification that a decision had been rendered and providing a link to download the decision, the 20-day period for seeking judicial review began. *Id.*

The appellate court also examined whether the Commission was bound by a 60-day deadline to issue its decision on remand pursuant to Section 19(e) of the Act. *Id.* ¶ 13. The court acknowledged that while Section 19(e) stipulates a timeline of 60 days for issuing decisions on review of an arbitrator’s findings, it is silent as to any deadline for the Commission’s decisions on remand. *Id.* The court refused to further examine the issue of a deadline for the Commission’s



decisions on remand, reasoning that the school district failed to file a timely appeal of the Commission’s decision on remand and therefore also missed its opportunity to challenge the Commission’s deadline under Section 19(e).

Takeaways

This case highlights the pains inherent in administrative bodies and courts switching from a paper system to an electronic system when it comes to matters of timeliness and notice. While this case was filed under Rule 23(b) and cannot be cited as precedential, the reasoning and process the court demonstrated is beneficial for evaluation of future cases. In fact, *South Berwyn Sch. Dist.* was recently cited by the Illinois Appellate Court Third District in support of the court’s order granting a motion for dismissal for untimeliness of an action and the court’s lack of subject matter jurisdiction. See *Saucedo-Diaz vs. Illinois Workers’ Compensation Comm’n*, 2024 IL App (3d) 230263WC-U.

Parties who subscribe to electronic systems must be aware of the effects of doing so. As we all recognize, attorneys must be diligent in analyzing the information transmitted to them by electronic means and discerning what action needs to be taken upon receipt. With the introduction of CompFile and the immediate notification that it allows of filings, this case makes clear that attorneys must be even more attentive to correspondence received in their electronic inbox, ensure court notices received via e-mail are properly docketed and managed, and work quickly with their clients to decide a plan of action for claims.

About the Authors

Amber D. Cameron is a partner at *Heyl, Royster, Voelker & Allen, P.C.*, working out of the firm’s Edwardsville and St. Louis offices, where she focuses her practice on workers’ compensation and toxic tort litigation. A seasoned trial attorney, Ms. Cameron represents employers of all sizes throughout southern Illinois and Missouri. Regularly providing educational seminars to insurance companies, third-party administrators, and self-insured employers, she has a keen eye for detail and a tactical approach, working diligently with her clients to develop creative resolution strategies for her claims. Before joining Heyl Royster, Ms. Cameron gained advanced knowledge of Illinois workers’ compensation law while working as a staff attorney at the Illinois Workers’ Compensation Commission. She earned her law degree and a certificate in dispute resolution from the University of Missouri-Columbia School of Law, where she excelled in legal writing.

* The author would like to thank **Jacob Welch**, an associate in the Champaign office of *Heyl, Royster, Voelker & Allen, P.C.*, for his assistance with this article.

About the IDC

The Illinois Defense Counsel (IDC) is the premier association of attorneys in Illinois who devote a substantial portion their practice to the representation of business, corporate, insurance, professional and other individual defendants in civil litigation. For more information on the IDC, visit us on the web at www.IDC.law or contact us at PO Box 588, Rochester, IL 62563-0588, 217-498-2649, 800-232-0169, admin@IDC.law.