

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GENORVAL BLUNT,)

Plaintiff,)

v.)

No. 4:13CV400 NAB

DIVISION OF WORKER'S)
COMPENSATION, et al.,)

Defendants.)

MEMORANDUM AND ORDER

Under Rule 12(h)(3) of the Federal Rules of Civil Procedure, the Court is required to review all cases for subject matter jurisdiction and to dismiss them at any time if jurisdiction is found to be lacking. I have given notice to plaintiff that subject matter is lacking, and plaintiff has responded. Plaintiff's response fails to show why this action should not be promptly dismissed.

In this action, plaintiff attempts to appeal an adverse decision of the Missouri Department of Labor and Industrial Relations for denial of worker's compensation benefits. This Court, however, does not have jurisdiction to engage in appellate review of state court decisions. Postma v. First Fed. Sav. & Loan, 74 F.3d 160, 162 (8th Cir. 1996). The proper review for denial of worker's compensation benefits by

an administration law judge in Missouri is to file an application for review with the Labor and Industrial Relations Commission. See Mo. Rev. Stat. § 287.470 *et seq.*

Moreover, the complaint is composed wholly of legal statements and is devoid of any facts, which if proved, would entitle plaintiff to relief.

A court does not obtain subject-matter jurisdiction just because a Plaintiff raises a federal question in his or her complaint. If the asserted basis of federal jurisdiction is patently meritless, then dismissal for lack of jurisdiction is appropriate. Because this is a facial rather than a factual challenge to jurisdiction, [the court] determine[s] whether the asserted jurisdictional basis is patently meritless by looking to the face of the complaint and drawing all reasonable inferences in favor of the Plaintiff.


Biscanin v. Merrill Lynch & Co., Inc. 407 F.3d 905, 907 (8th Cir. 2005) (citations omitted). The complaint is legally frivolous, and therefore, jurisdiction is lacking for this reason as well.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice.

An Order of Dismissal will be filed with this Memorandum and Order.

Dated this 1st day of April, 2013.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE