

IN THE UTAH COURT OF APPEALS

-----ooOoo-----

Workers Compensation Fund)	MEMORANDUM DECISION
and/or Rivers West Apparel,)	(Not For Official Publication)
)	
Petitioners,)	Case No. 20060103-CA
)	
v.)	F I L E D
)	(November 30, 2006)
Labor Commission and/or Darla)	
Basso,)	2006 UT App 476
)	
Respondents.)	

Original Proceeding in this Court

Attorneys: Hans M. Scheffler, Salt Lake City, for Petitioners
Alan L. Hennebold, Salt Lake City, for Respondent
Labor Commission
Darla Basso, Price, Respondent Pro Se

Before Judges Bench, Billings, and Davis.

DAVIS, Judge:

Rivers West Apparel and the Workers Compensation Fund (Petitioners) appeal the Utah Labor Commission's order affirming the administrative law judge's (ALJ) award of temporary total disability compensation from Petitioners to Respondent Darla A. Basso. We reverse.

Petitioners argue that the Labor Commission lacked jurisdiction to award benefits to Basso because the ALJ previously dismissed Basso's claim with prejudice. Petitioners contend that Basso's claim was fully litigated on the merits and that a final judgment was entered that Basso failed to properly appeal. Whether the relevant agency has jurisdiction is a question of law, which we review for correctness. See Utah Code Ann. § 63-46b-16(4)(b) (2004); Stokes v. Flanders, 970 P.2d 1260, 1262 (Utah 1998); Sheppick v. Albertson's, Inc., 922 P.2d 769, 773 (Utah 1996).

The Utah Administrative Procedures Act requires parties seeking administrative review of agency decisions to file a

written request for review within thirty days of the issuance of the order appealed from. See Utah Code Ann. § 63-46b-12(1)(a) (2004). This "request shall: (i) be signed by the party seeking review; (ii) state the grounds for review and the relief requested; (iii) state the date upon which it was mailed; and (iv) be mailed to the presiding officer and each party." Id. § 63-46b-12(1)(b). The record indicates that Basso complied with the statutory signature and mailing requirements, timely filed her motion for review, and adequately stated the "grounds for review" and "relief requested" regarding the ALJ's order as it pertained to Koret of California and Liberty Mutual Insurance.¹ Id.

Respecting Rivers West and the Workers Compensation Fund, however, Basso's motion for review failed to "state the grounds for review and the relief requested." Id. Indeed, aside from the caption, Petitioners are not mentioned anywhere in the substantive portion of the document. Instead, Basso's motion alleged that her injuries were caused by her work at Koret, and that Koret owed her ongoing or additional temporary total disability benefits or permanent partial disability benefits. Even under a generous reading of Basso's motion, we see no allegations respecting Petitioners.² As such, Basso failed to adequately appeal the ALJ's order as it pertained to Petitioners. See id.; Utah Admin. Code R602-2.2(M)(1); cf. Barnard & Burk Group, Inc. v. Labor Comm'n, 2005 UT App 401, ¶6, 122 P.3d 700 (upholding Labor Commission's denial of motion for review on grounds that party failed to plead with "'sufficient accuracy and detail'" as required by the relevant administrative rule (quoting Utah Admin. Code R602-2-1D)).

¹Koret also filed a motion for review making no mention of the ALJ's dismissal of Basso's claim versus Petitioners and served only on Basso's attorney.

²We are aware that administrative pleadings are to be liberally construed. See Pilcher v. Department of Soc. Servs., 663 P.2d 450, 453 (Utah 1983). However, "[l]iberal construction only goes so far, . . . and this court is [not] obligated to give pleadings such a liberal interpretation as to swallow up the reasonable and rational rules of procedure" Barnard & Burk Group, Inc. v. Labor Comm'n, 2005 UT App 401, ¶11, 122 P.3d 700. Basso's obligation to state "the grounds for review and the relief requested" under section 63-46b-12(1)(b), Utah Code Ann. § 63-46b-12(1)(b) (2004), is not overly burdensome. Basso simply needed to state how the ALJ erred by dismissing her claims against Petitioners and how the Labor Commission could remedy such error.

Because Basso's motion for review did not include Rivers West, the ALJ's order constitutes a final judgment. "A decision entered by an administrative law judge . . . is the final order of the commission unless a further appeal is initiated" Utah Code Ann. § 34A-1-303 (2005). See also id. § 34A-2-801(2) (2005); Utah Admin. Code R602-2.2(M)(1) (stating "[u]nless a request for review is properly filed, the Administrative Law Judge's Order is the final order of the [Labor] Commission" (emphasis added)). Since the motion for review was not properly filed, the final order was not appealed within the required thirty days. See Utah Code Ann. § 63-46b-12(1)(a). It follows that the Labor Commission lacked jurisdiction to review the decision of the ALJ and that the ALJ lacked jurisdiction to modify its dismissal of Basso's claim against Petitioners.³ See Kirkwood v. Department of Employment Sec., 709 P.2d 1158, 1158 (Utah 1985) (per curiam) (stating that timely filing for administrative review is a jurisdictional inquiry); Jones v. Department of Employment Sec., 641 P.2d 156, 157 (Utah 1982) ("In the absence of a timely filing of appeal . . . , the [administrative agency] had no jurisdiction to hear [the party's] case.").

Basso contends that regardless of whether the ALJ's order was final, the Labor Commission had continuing jurisdiction over her claim, which permitted the ALJ to modify the order. See Utah Code Ann. § 34A-2-420(1)(a) (2005) (stating "[t]he powers and jurisdiction of the commission over each case shall be continuing"). However, the purpose of the Labor Commission's continuing jurisdiction "is to take care of changed conditions or developments of some kind justifying a modification of a previous award." Hardy v. Industrial Comm'n, 89 Utah 561, 58 P.2d 15, 18 (1936) (emphasis added) (discussing former continuing jurisdiction statute). Because the ALJ dismissed Basso's claim against Rivers West, there was no award to modify and continuing jurisdiction was improper. We emphasize that

it is inconceivable that the legislature intended, or that the law should be, that a party could file a new application and have the Commission redetermine his cause on identical facts. If such were the case, the

³Further, the Labor Commission's remand to the ALJ was based upon Koret's motion for review, and the Labor Commission never directly ruled upon Basso's motion for review. On remand, the ALJ had authority only to act "as directed" by the Labor Commission's remand order. Utah Code Ann. § 34A-1-303(4)(a)(iii) (2005).

proceedings themselves would be but a sham[]
. . . . "It certainly was not intended . . .
that the Commission might resume jurisdiction
of a case that had once been regularly
determined without some change or new
development in the injury complained of not
known to the parties when the former award
was made."

Spencer v. Industrial Comm'n, 4 Utah 2d 185, 290 P.2d 692, 694
(1955) (quoting Salt Lake City v. Industrial Comm'n, 61 Utah 514,
215 P. 1047, 1048 (1923)). Thus, the ALJ did not have continuing
jurisdiction over Basso's claim against Petitioners and her
modification of the order was improper.

In conclusion, the ALJ's dismissal of Basso's claim against
Petitioners with prejudice constituted a final order, which was
never properly appealed by Basso. The Labor Commission and the
ALJ never had jurisdiction, let alone continuing jurisdiction, to
modify the original order.⁴ Therefore, the Labor Commission's
order affirming the ALJ's award of benefits from Petitioners to
Basso is reversed and the case is remanded for further
proceedings not inconsistent with this opinion.

James Z. Davis, Judge

WE CONCUR:

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

⁴Because we determine that the Labor Commission lacked
jurisdiction to grant or otherwise rule upon Basso's motion for
review, we need not reach Petitioners' other arguments on appeal.