

APPENDIX A

FILED

STATE OF MINNESOTA
IN SUPREME COURT

December 10, 2018

OFFICE OF
APPELLATE COURTS

A18-0319

Angela Rogers,

Relator,

vs.

Compass Airlines, Inc. and Chubb Group of Ins. Cos.,

Respondents.

Angela Rogers, Memphis, Tennessee, pro se.

Christine L. Tuft, Alicia J. Smith, Arthur, Chapman, Kettering, Smetak & Pikala, P.A., Minneapolis, Minnesota, for respondents.

Considered and decided by the court without oral argument.

O R D E R

The relator, employee Angela Rogers, contends that the Workers' Compensation Court of Appeals (WCCA) erred in dismissing her appeal as untimely because she was entitled to a 3-day extension of the filing deadline, *see* Minn. R. Civ. P. 6.05 (adding 3 days "to the prescribed period" when a party is served with a document by mail), or, her late filing should be excused due to circumstances outside her control.

"A notice of appeal must be timely filed . . . to give the [WCCA] jurisdiction of the appeal." *Bjerga v. Maislin Transport & Carriers Ins. Co.*, 400 N.W.2d 99, 99 (Minn.

1987). A party must file a notice of appeal with the chief administrative law judge and the Commissioner of Labor and Industry within 30 days after the party was served with the compensation judge's decision. *See Minn. Stat. § 176.421, subds. 1, 4 (2018).* Absent a timely appeal, the WCCA does "not have discretion to consider the merits of the claim." *Hemmesch v. Molitor*, 328 N.W.2d 445, 447 (Minn. 1983).

It is well-established that "filed" as used in section 176.421 requires that the notice of appeal be actually *received* by the filing deadline. *See Minn. Stat. § 176.275, subd. 1 (2018)* ("If a document is required to be filed by this chapter . . . , the filing shall be completed *by the receipt of the document* at the division, department, office, or the court of appeals." (emphasis added)); Minn. R. 1415.0700, subp. 4(A) (2017) ("A document is filed upon its receipt by the division or the office by 4:30 p.m. on a state business day."); Minn. R. 9800.0100, subp. 6 (2017) ("'Filed' means the receipt and stamping of a document by the court, division, or office, in conformity with Minnesota Statutes, section 176.275."). Even accepting Rogers's version of events, the notice of appeal was not received by the filing deadline and, thus, the WCCA did not err in deciding that the appeal by Rogers was untimely.

In addition, the Rules of Civil Procedure "govern the procedure *in the district courts* of the State of Minnesota in all suits of a civil nature." Minn. R. Civ. P. 1 (emphasis added). Proceedings before the compensation judge or the WCCA are not district court proceedings, and, thus, the 3-day extension provided by Rule 6.05 does not apply here and did not extend the filing deadline.

Finally, we do not have the authority to create exceptions to statutory deadlines for appeals. *See, e.g., Dennis v. Salvation Army*, 874 N.W.2d 432, 435 (Minn. 2016) (explaining that “we adhere strictly to the statutory requirements for appeals from an executive branch agency”).

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that the decision of the Workers’ Compensation Court of Appeals filed January 24, 2018, be, and the same is, affirmed without opinion. *See Hoff v. Kempton*, 317 N.W.2d 361, 366 (Minn. 1982) (explaining that summary dispositions “have no precedential value because they do not commit the court to any particular point of view,” doing no more than establishing the law of the case).

Dated: December 10, 2018

BY THE COURT:



Anne K. McKeig
Associate Justice

STATE OF MINNESOTA

SUPREME COURT

JUDGMENT

Angela Rogers, Relator, vs. Compass Airlines, Inc.
and Chubb Group of Ins. Cos., Respondents

Appellate Court # A18-0319

Trial Court # WC17-6125

Pursuant to a decision of the Minnesota Supreme Court duly made and entered, it is determined and adjudged that the decision of the Workers' Compensation Court of Appeals herein appealed from be and the same hereby is affirmed without opinion and judgment is entered accordingly.

Dated and signed: January 31, 2019

FOR THE COURT

Attest: AnnMarie S. O'Neill

Clerk of the Appellate Courts

By:

/s/

Clerk of the Appellate Courts

JAN 24 2018

WORKERS' COMPENSATION
COURT OF APPEALS

STATE OF MINNESOTA
WORKERS' COMPENSATION COURT OF APPEALS

No. WC17-6125

Angela Rogers,

Appellant,

v.

Compass Airlines, Inc., and
Chubb Group of Ins. Cos.,

Respondents.

ORDER OF DISMISSAL

On November 16, 2017, a compensation judge at the Office of Administrative Hearings issued a Findings and Order in the above case; and

On December 11, 2017, the employee filed a timely request for an extension of time for filing an appeal; and

Pursuant to Minn. Stat. §176.421, subd. 2, this court granted the employee's request and ordered that the time for taking an appeal was extended an additional 30 days until January 15, 2018; and

The employee failed to timely file a notice of appeal. Service and filing requirements of the notice of appeal are jurisdictional. Carpenter v. Woodvalc, Inc., 400 N.W.2d 727, 39 W.C.D. 430 (Minn. 1987); Kearns v. Juliette Originals Dress Co., 267 Minn. 278, 126 N.W.2d 266, 23 W.C.D. 127 (1964). This court, therefore, lacks subject matter jurisdiction and cannot consider the merits of the case. Hemmesch v. Molitor, 328 N.W.2d 445, 35 W.C.D. 541 (Minn. 1983); Meissner v. Southview Acres Health Care Ctr., 45 W.C.D. 524 (W.C.C.A. 1991), summarily aff'd (Minn. Dec. 13, 1991).

It is hereby ORDERED that the employee's case is DISMISSED.

BY THE COURT:

A handwritten signature of Patricia J. Milun, Chief Judge.
PATRICIA J. MILUN, Chief Judge

Dated this 24 day of January, 2018.



STATE OF MINNESOTA
Workers' Compensation Court of Appeals
Minnesota Judicial Center
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St. Paul, Minnesota 55155
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Fax: (651) 539-1212

For TTY/TDD users only
via MN Relay Service
dnr 1-800-627-2529

No. WC17-6125

PROOF OF SERVICE

STATE OF MINNESOTA)
COUNTY OF RAMSEY) SS

Donna Odegaard certifies that as an employee of the Minnesota Workers' Compensation Court of Appeals s/he served a true and correct copy of the attached Order, by placing it in a properly addressed envelope delivered to the Department of Administration Central Mail service for deposit in the U.S. Mail in the City of St. Paul, Minnesota, in accordance with Minn. Stat. § 16B.49, on **January 24, 2018**, addressed as follows:

ANGELA ROGERS
4033 NAYLOR RD
MEMPHIS TN 38128

COMPASS AIRLINES INC
7500 AIRLINE DR STE 130
MINNEAPOLIS MN 55450

CHUBB GROUP OF INSURANCE COS
525 W MONROE ST STE 700
CHICAGO IL 60661

CHRIST COMMUNITY HEALTH
MARY WHITAKER
2595 CENTRAL AVE
MEMPHIS TN 38104

CHRISTIAN PSYCHIATRIC SERVICES
VALERIE AUGUSTUS
2205 WEST ST
MEMPHIS TN 38138

COLE PAIN THERAPY GROUP
2845 SUMMER OAKS DR
MEMPHIS TN 38134

CHRISTINE TUFT
ARTHUR CHAPMAN
81 S 9TH STREET STE 500
MINNEAPOLIS MN 55402

CARL SOMMERER
LIEN
1219 MARQUETTE AVE STE 300
MINNEAPOLIS MN 55403

GRETCHEN HALL
LIEN
4527 ALLENDALE DR STE 200
VADNAIS HEIGHTS MN 55127

Signed Donna Odegaard
Donna Odegaard

APPENDIX C

FILED

STATE OF MINNESOTA
IN SUPREME COURT

March 7, 2018

**OFFICE OF
APPELLATE COURTS**

A18-0319

Angela Rogers,

Relator,

vs.

Compass Airlines, Inc. and Chubb Group of Insurance Cos.,

Respondents.

O R D E R

Relator Angela Rogers seeks review of a decision of the Workers' Compensation Court of Appeals (WCCA), which was filed by the WCCA on January 24, 2018 and served on the parties by mail on January 25, 2018. Based on the mail service, three days are added to the deadline for seeking review of this decision. Minn. R. Civ. App. P. 125.03 ("Whenever a party is required or permitted to do an act within a prescribed period after service and the document is served by United States Mail, 3 days shall be added to the prescribed period."). Thus, the deadline for filing a petition for a writ of certiorari and writ of certiorari in this case, based on the mail service, was February 27, 2018. *See* Minn. Stat. § 176.471, subd. 1 (2016) (requiring a party to "act[] within 30 days from the date the party was served" in seeking review in this court); *see also* Minn. Stat. § 176.285 (2016) ("Where service is by mail, service is effected at the time mailed if properly addressed and stamped."); Minn. R. Civ. App. P. 125.03 ("Service by United States Mail is complete on

mailing.”). We can grant an extension of time to seek review on certiorari when “cause is shown within the 30-day period referred to in subdivision 1” of section 176.471. Minn. Stat. § 176.471, subd. 2 (2016).

Rogers submitted a petition for a writ of certiorari and proposed writ of certiorari, but both were rejected by the Clerk of the Appellate Courts for failure to conform to the form and format requirements of court rules. Then, Rogers filed a motion on February 27, 2018, requesting an extension of time to file and serve a petition for writ of certiorari and writ of certiorari. As this motion was filed “within the 30-day period” permitted for seeking review of the WCCA’s decision and cause for an extension is provided, the motion can be granted.

Rogers also moves for leave to proceed in forma pauperis for purposes of the filing fee for the appeal to this court and any transcript preparation costs. Relator’s motion satisfies the requirements of Minn. R. Civ. App. P. 109.04, and thus the filing fee can be waived. As no transcripts have been ordered in this case, nor does it appear from the WCCA’s order of January 24, 2018 that a transcript was prepared for the proceeding before that court, there is no apparent need, at this point, to incur transcription preparation costs for the appeal to our court.

IT IS HEREBY ORDERED that the motion of relator Angela Rogers for an extension of time to file and serve a petition for a writ of certiorari and writ of certiorari be, and the same is, granted. The petition for a writ of certiorari and writ of certiorari must be filed and served on or before March 29, 2018. Relator’s filings shall comply with the form and format requirements of the Minnesota Rules of Civil Appellate Procedure.

Failure to comply with the March 29 deadline may result in dismissal of this appeal, and failure to comply with the form and format requirements of the rules may result in rejection of relator's submissions and dismissal of this appeal.

IT IS FURTHER ORDERED that the motion of relator Angela Rogers for leave to proceed in forma pauperis be, and the same is, granted for purposes of the filing fee required for this appeal. If a transcript of the proceedings before the Workers Compensation Court of Appeals is ordered for purposes of this appeal, relator may move again for in forma pauperis status.

Dated: March 7, 2018

BY THE COURT:



Lorie S. Gildea
Chief Justice