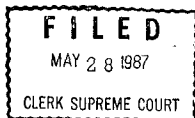


IN THE COURT OF APPEALS OF IOWA



CHARLES W. DOW,)

Plaintiff-Appellant,)

vs.)

Filed May 28, 1987

IOWA DEPARTMENT OF JOB)
SERVICE and CITY OF)
BRADYVILLE, IOWA,)

7-162
86-1005

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Defendants-Appellees.)

Appeal from the Iowa District Court for Page County (No. 21721), Glenn McGee, Judge.

The plaintiff appeals from the action of the district court which sustained a special appearance by the Iowa Department of Job Service and dismissed the plaintiff's petition for judicial review. **AFFIRMED.**

Verd R. Bailey of Davidson & Bailey, P.C., Clarinda, for plaintiff-appellant.

Blair H. Dewey and William C. Whitten, Des Moines, for defendants-appellees.

Considered by Oxberger, C.J., and Donielson and Schlegel, JJ.

PER CURIAM

The sole question presented in this appeal is whether the trial court erred in dismissing the claimant-appellant's petition for judicial review of a decision filed by the defendant, Iowa Department of Job Service. The trial court found that the claimant had failed to comply with section 96.6(8) of the Iowa Code, which requires a claimant seeking judicial review to name in his or her petition all parties to the proceeding before the appeal board. We affirm.

The record discloses that the claimant's former employer, the City of Braddyville, was a party to the proceeding before the appeal board, but was not named in the claimant's petition for judicial review. After discovering this defect, the Iowa Department of Job Service filed a special appearance arguing that the claimant's failure to comply with the appeal procedure deprived the court of jurisdiction. We agree.

In Ball v. Iowa Department of Job Service, 308 N.W.2d 54, 55 (Iowa 1981), the supreme court explicitly stated that the right of judicial review is conferred by statute and, consequently, prescribed statutory procedures must be followed in order for a district court to acquire jurisdiction. The court in Ball further stated that "[a] failure to comply with applicable statutory requirements . . . deprives the court of jurisdiction for judicial review." Id. Moreover, when jurisdiction is wanting because of a party's failure to comply with statutory procedures, "it is the court's duty to refuse to entertain an appeal." Id.; see also Kerr v. Iowa Public Service Co., 274 N.W.2d 283, 287 (Iowa 1979).

In Ball, as in the present case, the claimant failed to comply with the "mandate" of section 96.6(8), which requires that all parties before the department's appeal board be named in the petition. Id. at 56. The court in Ball held that this failure deprived the district court of jurisdiction, and reversed the district court's decision overruling the defendant's special appearance.

The claimant in the present case argues that the district court should not have dismissed the petition because he mailed a copy to his employer and because the employer's name was referred to when the claimant made reference to the decision entered by the Department of Job Service; the employer's name was used in that decision. The claimant contends that he thus "substantially complied" with the requirements of section 95.5(8). We disagree. In support of his argument, the claimant has relied upon Green v. Iowa Department of Job Service, 299 N.W.2d 651, 654 (Iowa 1980). In Green, the supreme court held that a claimant's petition should not be dismissed despite his failure to name his employer in his petition for judicial review because the employer had been named in certain exhibits attached to the petition. We think Green is factually distinct from the present case. Here, the department's decision was not attached to the petition; consequently, the employer's name could not be ascertained from either the petition or any appended documents. As such, we find this case wholly indistinguishable from Ball.

Nor are we persuaded by the claimant's assertion that the district court erred in refusing to grant his request to amend the petition. The claimant's motion requesting the amendment was not timely filed so as to allow compliance with the additional requirements of section 17A.19(2) which requires that copies of the petition be mailed to all parties within ten days after the petition is filed. See Iowa Code § 17A.19(2) (1985).

In conclusion, we hold the claimant's failure to comply with statutory procedures deprived the court of jurisdiction, and thus, the petition was properly dismissed.

AFFIRMED.