IN THE COURT OF APPEALS OF IOWA

No. 9-021 / 98-150
Filed July 23, 1999

EVELYN LUCILLE DELANEY,
Plaintiff-Appellant,

vs.

FILED
JUL 23 1999

CITY OF CEDAR RAPIDS, IOWA,
Defendant-Appellee,
and

JOHN G. DELANEY and LINN COUNTY, IOWA,
Defendants.

Appeal from the Iowa District Court for Linn County, William L. Thomas, Judge.

On appeal from the district court order dismissing her appeal of a condemnation award, the plaintiff argues the court erred in finding subject matter jurisdiction was lacking. **AFFIRMED.**

Raymond R. Stefani II of Gray, Stefani & Mitvalsky, P.L.C., and Steven A. Stefani of the Steven Stefani Law Firm, Cedar Rapids, for appellant.

Mohammad H. Sheronick, Cedar Rapids City Attorney, Cedar Rapids, for appellee.

Considered by Sackett, C.J., Streit, J., and Hayden, S.J.*

*Senior judge assigned by order pursuant to Iowa Code § 602.9206 (1999).

000072

PER CURIAM

Evelyn Delaney appeals the decision of the district court which dismissed her appeal of a condemnation award on the ground the court lacked subject matter jurisdiction because she failed to serve notice on the sheriff.

In October 1996, the City of Cedar Rapids condemned certain real estate for the purposes of building a parking facility. A portion of the condemned property was owned by Evelyn Delaney. On December 5, 1996, the compensation commission awarded her $48,000 for her property.

Delaney appealed the compensation award to the district court on January 6, 1997. She did not serve notice on the sheriff, as required by Iowa Code section 6B.18 (1995). The parties agreed the amount of $48,000 should be released to Delaney pending the outcome of the appeal. The district court ordered the sheriff to release the amount to Delaney. In response, the sheriff sent a letter to the clerk of the district court which stated:

> Since receiving a court order to release condemnation funds being held by this office, I am assuming that a notice of appeal has been filed with your office.

In its answer, the City raised as an affirmative defense the issue of whether the district court had subject matter jurisdiction.

Delaney filed a motion seeking an adjudication of law points. The district court determined it did not have subject matter jurisdiction of Delaney's appeal. The court concluded the failure to notify the sheriff was a jurisdictional defect depriving the court of jurisdiction to proceed with the appeal. The court found the sheriff's

letter merely confirmed the sheriff had not been properly served with notice. Delaney appealed. We affirm.

An adjudication of law points is confined to a determination of legal matters on uncontroverted pleadings. *IMT Ins. Co. v. Myer,* 283 N.W.2d 316, 316 (Iowa 1979). Our scope of review is for the correction of errors at law. Iowa R. App. P. 4.

Section 6B.18 provides a party must appeal to the district court within thirty days from the date of mailing the notice of appraisement of damages by the compensation commission. This section further provides:

> At the time of appeal, the appellant shall give written notice that the appeal has been taken to the adverse party, or the adverse party's agent or attorney, lienholders, and the sheriff.

Iowa Code §6B.18.

Appeals from condemnation awards invoke the appellate jurisdiction of the district court. *Chao v. City of Waterloo,* 346 N.W.2d 822, 824 (Iowa 1984). In order to perfect an appeal, the appellant must substantially comply with the notice requirements of the statute. *Harrington v. City of Keokuk,* 258 Iowa 1043, 1047, 141 N.W.2d 633, 636 (1966).

Delaney admits she did not serve notice on the sheriff as required by section 6B.18. She claims she substantially complied with the statutory notice requirements. She asserts the sheriff's letter shows the sheriff had actual knowledge of her appeal. Delaney contends this was sufficient to invoke the subject matter jurisdiction of the court.

Substantial compliance exists when the action taken, although not literally satisfying the statutory requirement, nevertheless fulfills the minimal objectives of the statute. *Superior/Ideal, Inc. v. Board of Review,* 419 N.W.2d 405, 407 (Iowa 1988). Here, the purpose of giving notice of appeal was to inform the sheriff an appeal had been taken. The sheriff's letter pointed out the sheriff had not received notice of the appeal. The sheriff did not state or show any knowledge of an appeal. He assumed a notice of appeal had been filed with the clerk. This does not constitute substantial compliance with Iowa Code section 6B.18.

A complete failure to give notice does not constitute substantial compliance. *Burnham v. City of West Des Moines,* 568 N.W.2d 808, 811 (Iowa 1997). Failure to serve the sheriff with notice of an appeal deprives the district court of jurisdiction. *Id.* We hold the district court did not have subject matter jurisdiction of Delaney's appeal.

We affirm the decision of the district court dismissing Delaney's appeal for lack of subject matter jurisdiction. Costs of this appeal are assessed to Delaney.

AFFIRMED.