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Bd. of Review v. Second Judicial Dist. Court, 133 Nev. Adv. Op. 35 (June 22, 2017)

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CIVIL: ORIGINAL PROCEEDING, MANDAMUS/PROHIBITION

Summary

Naming all relevant parties as defendants, pursuant to NRS 612.530(1), is a mandatory jurisdictional requirement. Failure to follow this statutory requirement deprives the district court of its jurisdiction to hear a petition for judicial review.

Background

Jessica Gerry is a former McDonald's employee. In March 2015, the Board of Review upheld a decision granting Ms. Gerry unemployment compensation benefits. In April 2015, McDonald's filed a petition for judicial review of the Board's Decision with the district court. Ms. Gerry was not named as a defendant in either the caption or the body of the petition, though her full name and address were included within an attachment to the petition. The Administrator of the Nevada Department of Employment, Training and Rehabilitation, Employment Security Division (the ESD) filed a motion to dismiss on the ground that the petition for judicial review was defective under NRS 612.530(1) based on McDonald's failure to name Ms. Gerry as a defendant. According to the ESD, Ms. Gerry was a party to the proceedings before the Board, and as such, she should have been included as a defendant in the petition. McDonald's filed an opposition to the ESD's motion to dismiss as well as a motion to amend its petition to add Ms. Gerry as a defendant. The district court decided that naming of all relevant parties as defendants, pursuant to NRS 612.530(1), was not a jurisdictional requirement. Thus, the district court denied the ESD's motion to dismiss and granted McDonald's motion to amend. The ESD filed the instant petition seeking extraordinary relief, claiming the district court lacked jurisdiction to proceed.

Discussion

“If a statute is clear and unambiguous, this Court gives effect to the plain and ordinary meaning of its language without examining the other rules of construction.”² NRS 612.530(1) states:

Within 11 days after the decision of the Board of Review has become final, any party aggrieved thereby or the Administrator may secure judicial review thereof by commencing an action in the district court of the county where the employment which is the basis of the claim was performed for the review of the decision, in which action any other party to the proceedings before the Board of Review must be made a defendant.³

¹ By Skyler Sullivan.

² *J.D. Constr., Inc. v. IBEX Int'l Grp., LLC*, 126 Nev. 366, 375, 240 P.3d 1033, 1039 (2010).

³ NEV. REV. STAT. § 612.530(1) (2015).

This Court has consistently held that the requirements of NRS 612.530(1) are jurisdictional and mandatory.⁴ Based on the plain language of the statute, the Court concluded that the naming requirement within the statute “must be completed as timely as the rest of the petition...[t]his clause indicates that each requirement of NRS 612.530(1) must be completed within those 11 days.” Ms. Gerry was not named as a party in McDonald’s original petition. Additionally, the Certificate of Service did not indicate she was served with a copy of the petition. Ms. Gerry was only named as a defendant in the amended petition months after McDonald’s had filed its original petition for judicial review. McDonald’s “failed to follow the statutory requirements of NRS 612.530(1), thus depriving the district court of jurisdiction to hear its petition for judicial review.” Therefore, the ESD’s petition for extraordinary relief is granted.

Conclusion

The Court shall issue a writ of prohibition directing the district court to grant the ESD’s motion to dismiss the proceeding for lack of jurisdiction.

⁴ See *Kame v. Emp’t Sec. Dep’t*, 105 Nev. 22, 24 (1989); *Scott v. Nev. Emp’t Sec. Dep’t*, 70 Nev. 555, 559 (1954).