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is remanded with directions to reinstate the order of termination entered by the Board.

REVERSED AND REMANDED WITH DIRECTIONS.

THOMAS E. BURNHAM, APPELLANT, V. THE PACESETTER CORPORATION AND LIBERTY MUTUAL GROUP, APPELLEES.

789 N.W.2d 913

Filed October 15, 2010. Nos. S-10-229, S-10-344.

1. **Jurisdiction: Judgments: Appeal and Error.** Determination of a jurisdictional issue which does not involve a factual dispute is a matter of law which requires an appellate court to reach an independent conclusion.
2. **Judgments: Appeal and Error.** An appellate court independently decides questions of law.
3. **Workers' Compensation: Jurisdiction: Statutes.** The Workers' Compensation Court is not a court of general jurisdiction, but, rather, is a statutorily created court.
4. ____: ____: ____. No Nebraska statute grants equity jurisdiction to the Workers' Compensation Court.
5. **Workers' Compensation: Courts: Statutes.** A statutorily created court, such as the Workers' Compensation Court, has only such authority as has been conferred upon it by statute, and its power cannot extend beyond that expressed in the statute.

Appeals from the Workers' Compensation Court. Affirmed.

Eric W. Kruger, of Rickerson & Kruger, for appellant.

Scott A. Lautenbaugh, of Hansen, Lautenbaugh & Buckley, L.L.P., for appellees.

HEAVICAN, C.J., WRIGHT, CONNOLLY, GERRARD, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

HEAVICAN, C.J.

INTRODUCTION

This case comes to us from the Nebraska Workers' Compensation Court. Thomas E. Burnham was injured while working for The Pacesetter Corporation, and in 2007, the Nebraska Court of Appeals granted summary affirmance

to Burnham confirming his award. This appeal arises from Burnham's attempts to enforce the award against appellees, The Pacesetter Corporation and Liberty Mutual Group (Liberty Mutual), its insurance carrier, through the compensation court, first by filing a motion to enforce the award and then by filing a motion to compel. In both cases, the compensation court found it did not have jurisdiction. Burnham appeals those decisions, which have been consolidated for purposes of this appeal.

FACTS

The background and procedural posture of this case involve multiple appeals and multiple motions. Briefly, after several appeals, the Court of Appeals upheld the decision of the compensation court, finding that Burnham had suffered a 65-percent loss of earning capacity. The Court of Appeals also affirmed the imposition of a waiting-time penalty and attorney fees.

On May 15, 2009, Burnham initiated a garnishment action in the Douglas County District Court to collect his award. The district court garnished $28,191.90 from Liberty Mutual and ordered Liberty Mutual to deliver that amount to the court, pending appeal. The Court of Appeals eventually summarily affirmed that order on January 13, 2010, in case No. A-09-730.

While the garnishment proceeding was on appeal, Burnham filed his "Motion for Enforcement of Award and Notice of Hearing" in the compensation court on February 10, 2009, and filed a "Motion to Compel re: Liberty Mutual's Violation of Court Orders" on December 8. That court denied both motions, finding that it did not have the authority to enforce collection of its own awards and that Burnham had a sufficient remedy in the district court. The three-judge review panel of the compensation court affirmed those decisions, and Burnham appeals. Burnham alleges that our recent decisions in *Russell v. Kerry, Inc.*[1] and *Midwest PMS v. Olsen*[2] allow the compensation court to enforce its own decisions.

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[1] *Russell v. Kerry, Inc.*, 278 Neb. 981, 775 N.W.2d 420 (2009).

[2] *Midwest PMS v. Olsen*, 279 Neb. 492, 778 N.W.2d 727 (2010).

ASSIGNMENTS OF ERROR

Burnham assigns, consolidated and restated, that the compensation court erred when it determined that it did not have the authority to enforce the judgment or compel appellees to pay the award and that Burnham's sole remedy is in the district court.

STANDARD OF REVIEW

[1] Determination of a jurisdictional issue which does not involve a factual dispute is a matter of law which requires an appellate court to reach an independent conclusion.[3]

[2] An appellate court independently decides questions of law.[4]

ANALYSIS

We note at the outset that during oral argument, Burnham claimed he was seeking clarification from the compensation court as to the penalties that were ordered. Burnham makes no argument in his brief regarding clarification, but instead argues that the compensation court has the authority to enforce the judgment against appellees, to compel appellees to pay what they owe, and to find appellees in contempt for failing to follow that court's order. Appellees argue that any award must be enforced through the district court. We agree that Burnham's remedy must be pursued in the district court.

Burnham appealed the decisions of the compensation court, and those two appeals were consolidated in the present case. Burnham acknowledges that he received payment of $28,191.90 through the garnishment action, but alleges that the waiting-time penalty was not part of that garnishment action and that he is still owed in excess of $90,000. Although Burnham does not explain why he omitted the waiting-time penalties from his motion for garnishment, he stated that he filed the actions that make up the current appeal in response to our decision in *Russell v. Kerry, Inc.*[5]

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[3] *Harleysville Ins. Group v. Omaha Gas Appliance Co.*, 278 Neb. 547, 772 N.W.2d 88 (2009).

[4] *Russell, supra* note 1.

[5] *Id.*

In *Russell*, the employee received an award before the compensation court.[6] The employer then failed to timely pay the award, and the employee sought a waiting-time penalty and attorney fees. While that enforcement motion was pending, the employer ceased paying the employee weekly disability benefits and he filed a second enforcement action before the compensation court. While the second action was pending, the employer perfected its appeal on the first action to the three-judge review panel. Both enforcement actions were denied, and the employee appealed.

In *Russell*, the compensation court found that it did not have jurisdiction over the second enforcement action while the appeal of the first enforcement order was pending. We disagreed, finding that the compensation court did have jurisdiction to assess a waiting-time penalty, attorney fees, and interest for all delinquent payments.[7] We determined that because the employer's appeal of the first violation (failing to make payments within 30 days) had nothing to do with the second violation (ending weekly benefit payments), the employee could bring a second action to assess a penalty over which the compensation court had jurisdiction.[8] We further held that interest should be assessed on each installment of compensation benefits from the date interest becomes due.[9]

The second case Burnham cites in support of his claim is *Midwest PMS v. Olsen*.[10] The crux of *Midwest PMS* was a dispute between two workers' compensation insurance carriers. The compensation court dismissed the case, finding it did not have jurisdiction to decide a case between two insurance carriers. One insurance company appealed. We stated that Neb. Rev. Stat. § 48-161 (Reissue 2004) granted the compensation court the authority to exercise ancillary jurisdiction.[11] We noted

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[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Midwest PMS, supra* note 2.

[11] *Thomas v. Omega Re-Bar, Inc.*, 234 Neb. 449, 451 N.W.2d 396 (1990) (superseded by statute as stated in *Midwest PMS, supra* note 2).

that the subrogation issue involved facts usually decided by the compensation court. We determined that "the final resolution of an employee's right to workers' compensation benefits does not preclude an issue from being 'ancillary' to the resolution of the employee's right to benefits within the meaning of § 48-161."[12] Therefore, the compensation court had authority to determine liability as between insurance companies.

Here, the three-judge review panel stated:

> In the original award, [Burnham] received weekly benefits plus penalties on weekly benefits and additional penalties on weekly benefits until the benefits became current. Only one penalty can be awarded and only one attorney fee awarded, and once [Burnham] recovers the penalty and an attorney fee for late payment of weekly benefits and late payment of medical benefits, the . . . compensation court is without authority to award additional penalties and attorney's fees. Without statutory authority to act on [Burnham's] request, the Court has no jurisdiction on the issue of additional attorney's fees.

The three-judge review panel further stated that although interest continued to accrue, the amount of the award was to be determined by the district court.

We find that to the extent that Burnham is asking for a clarification of his award, as suggested during oral argument, the compensation court has the authority to do so. Contrary to Burnham's allegation, however, although the compensation court does have jurisdiction to clarify its award, it does not have the authority to enforce the collection of its award. Nor does the compensation court have the authority to issue contempt citations. In *Russell*,[13] we held that the compensation court can impose a penalty for refusing to pay an award. However, *Russell* is distinguishable. After the employer was assessed a waiting-time penalty for failing to pay medical expenses and the matter was on appeal, the employer ceased to pay weekly benefits, thereby incurring a second, separate penalty.

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[12] *Midwest PMS, supra* note 2, 279 Neb. at 499, 778 N.W.2d at 733.

[13] *Russell, supra* note 1.

In Burnham's case, the award was finalized in 2006, and a waiting-time penalty and attorney fees were assessed at that time as well. But as the compensation court noted, "[a]ny argument that there was a continuing obligation to pay benefits terminated on May 1, 2006, when the 300[-]week statutory maximum period for payment of benefits occurred." Therefore, unlike in *Russell*, where there were two separate violations, the compensation court had no reason to impose a second penalty on appellees for failing to pay weekly benefits.

In a supplemental letter, Burnham also relies on *Smeal Fire Apparatus Co. v. Kreikemeier*,[14] arguing that under that case, the compensation court has the authority to find a party in contempt for failing to comply with an order. In *Smeal Fire Apparatus Co.*,[15] we discussed a court's "inherent contempt powers," particularly in light of Neb. Rev. Stat. § 25-1072 (Reissue 2008). And we stated that "a court properly exercising equity jurisdiction may completely adjudicate all matters properly presented and grant relief, legal or equitable, as may be required and thus avoid unnecessary litigation."[16] In effect, any court of general jurisdiction has inherent power to remedy violations of its orders, which includes finding a party in contempt.[17]

[3-5] The compensation court is not a court of general jurisdiction, but, rather, is a statutorily created court.[18] And no Nebraska statute grants equity jurisdiction to the compensation court.[19] "A statutorily created court, such as the Workers' Compensation Court, has only such authority as has been conferred upon it by statute, and its power cannot extend beyond that expressed in the statute."[20]

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[14] *Smeal Fire Apparatus Co. v. Kreikemeier*, 279 Neb. 661, 782 N.W.2d 848 (2010).

[15] *Id.* at 670, 782 N.W.2d at 859.

[16] *Id.* at 673-74, 782 N.W.2d at 861.

[17] *Smeal Fire Apparatus Co., supra* note 14.

[18] See *Schweitzer v. American Nat. Red Cross*, 256 Neb. 350, 591 N.W.2d 524 (1999).

[19] *Risor v. Nebraska Boiler*, 274 Neb. 906, 744 N.W.2d 693 (2008).

[20] *Schweitzer, supra* note 18, 256 Neb. at 358, 591 N.W.2d at 530.

After our decision in *Thomas v. Omega Re-Bar, Inc.*,[21] the Legislature amended § 48-161 to invest the compensation court with ancillary jurisdiction "to determine insurance coverage disputes in the claims before it, including the existence of coverage, and the extent of an insurer's liability."[22] We have stated that the main purpose behind giving the compensation court ancillary jurisdiction was to prevent delay in payment of benefits.[23] Ancillary jurisdiction does not include the power to enforce the collection of an award, as Burnham suggests. We noted in *Midwest PMS* that the subrogation issue involved facts usually decided by the compensation court. In the present case, Burnham is asking the compensation court to enforce the collection of its award and/or find appellees in contempt. Nowhere in the Nebraska Workers' Compensation Act is the compensation court vested with the authority to issue contempt orders. Those powers have traditionally been reserved for the district court.

Neb. Rev. Stat. § 48-188 (Cum. Supp. 2008) provides Burnham with a sufficient remedy. Under that statute, Burnham may file his award with the district court, which will give it the same force and effect as a judgment of the district court.[24] Burnham has, in effect, done exactly this by pursuing a garnishment proceeding in the district court. Burnham has failed to present any compelling reason why he cannot continue to pursue through the district court what he claims he is still owed.[25]

We therefore find Burnham's assignment of error without merit and affirm the decision of the three-judge review panel of the compensation court finding that it did not have jurisdiction over Burnham's motions.

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[21] *Thomas, supra* note 11.

[22] *Schweitzer, supra* note 18, 256 Neb. at 358, 591 N.W.2d at 530.

[23] *Midwest PMS, supra* note 2; *Schweitzer, supra* note 18.

[24] See § 48-188.

[25] See *Koterzina v. Copple Chevrolet*, 249 Neb. 158, 542 N.W.2d 696 (1996), *disapproved on other grounds, Allen v. Immanuel Med. Ctr.*, 278 Neb. 41, 767 N.W.2d 502 (2009).

CONCLUSION

The Workers' Compensation Court is a statutorily created court and has only the authority granted to it by statute. The Nebraska Workers' Compensation Act does not grant the compensation court the authority to enforce the collection of its awards. Under § 48-188, a worker must seek such enforcement through the district court. We therefore affirm the decision of the three-judge review panel of the compensation court.

AFFIRMED.