

STATE OF MICHIGAN
COURT OF APPEALS

JAMES WALKER,

Plaintiff-Appellee,

v

MEHEDI KAMAL and BIG DADDY TAXI, LLC,

Defendants-Appellants.

UNPUBLISHED
October 23, 2012

No. 307601
Ingham Circuit Court
LC No. 11-000824-NO

Before: K. F. KELLY, P.J., and MARKEY and SERVITTO, JJ.

MEMORANDUM.

Defendants appeal as of right an order reducing to judgment an award following an administrative proceeding before the Workers' Compensation Board of Magistrates in which defendants did not participate. The magistrate found that defendants willfully refused the application that was sent to them by certified mail and subsequently awarded plaintiff damages for the injury he received during the course of his employment with defendants. We affirm.

The sole issue on appeal is whether the circuit court had subject-matter jurisdiction to enforce the magistrate's order. We review de novo the question of law of whether a court has subject-matter jurisdiction. *Biondo v Biondo*, 291 Mich App 720, 724; 809 NW2d 397 (2011). Whether a court possesses personal jurisdiction is also a question of law subject to de novo review. *W H Froh, Inc v Domanski*, 252 Mich App 220, 225; 651 NW2d 470 (2002).

Defendants first contend that the circuit court did not have subject-matter jurisdiction in the case at hand because plaintiff failed to provide a certified copy of the order as required under MCL 418.863. We disagree.

“Subject matter jurisdiction in particular is defined as the court's ability to exercise judicial power over that class of cases; not the particular case before it, but rather the abstract power to try a case of the kind or character of the one pending.” *Campbell v St John Hosp*, 434 Mich 608, 613-614; 455 NW2d 695 (1990) (quotation marks and citations omitted). Circuit courts have subject-matter jurisdiction under MCL 418.863 to “render judgment in accordance” with “an order of a worker's compensation magistrate, an arbitrator, the director, or the appellate commission in any compensation proceeding.”

Defendants are correct that the initial copy of the order plaintiff filed with the circuit court was not certified. However, the error was corrected on January 17, 2012, when plaintiff

filed a certified copy of the same order. Eight days later, on January 25, 2012, the circuit court amended the judgment against defendants. Thus, any potential error was corrected by the circuit court and is deemed harmless.

Defendant also argues that the order issued by the Workers' Compensation Board of Magistrates was void for lack of personal jurisdiction. This issue was waived, however, because defendants failed to raise it in their first responsive pleading. MCR 2.116(D)(1); *Robert A Hansen Family Trust v FGH Indus, LLC*, 279 Mich App 468, 477 n 7; 760 NW2d 526 (2008). Defendants filed an appeal with the Workers' Compensation Appellate Commission (WCAC) and a few motions with the circuit court before they first asserted the magistrate's lack of personal jurisdiction. Moreover, we are precluded from considering this issue because it involves an issue of law that was not raised before or addressed by the WCAC. MCL 418.861a(14); *Calovecchi v State*, 461 Mich 616, 626; 611 NW2d 300 (2000).

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Jane E. Markey
/s/ Deborah A. Servitto