

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

HADI SADJADI,
Appellant,
vs.
LIBERTY MUTUAL INSURANCE
COMPANY; LAS VEGAS TOWNSHIP
CONSTABLE; AND NEVADA
DEPARTMENT OF ADMINISTRATION.
Respondents.¹

No. 74402

FILED

OCT 25 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER VACATING JUDGMENT AND REMANDING

Hadi Sadjadi appeals from a district court order denying a petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Jerry A. Wiese, Judge.

Sadjadi petitioned for judicial review of an appeals officer's decision with regard to his permanent partial disability award. In his petition, Sadjadi stated that he served the document on the parties listed in the appeals officer's decision, which, although it was not attached to the petition, included a certificate of mailing that listed, as relevant here, his former employer, respondent the Las Vegas Township Constable and its insurer, respondent Liberty Mutual Insurance Company (collectively the Insurer). And Sadjadi eventually served the petition on the Nevada Attorney General's Las Vegas office as well as the appeals office of respondent the Department of Administration (NDA), albeit after the

¹We direct the clerk of the court to amend the caption for this case to conform to the caption on this order.

period for service expired. See NRS 233B.130(5) (requiring a petition for judicial review to be served within 45 days of its filing).

The Insurer moved to dismiss Sadjadi's petition for lack of jurisdiction arguing, among other things, that he failed to comply with a NRS 233B.130's service requirements. Sadjadi opposed that motion, and the district court denied it, explaining that it would not require strict compliance with that statute given Sadjadi's efforts to satisfy its mandates. The parties then briefed the merits of Sadjadi's petition, and the district court later denied judicial review. This appeal followed.

On appeal, the parties dispute whether the district court was required to dismiss Sadjadi's petition based on his failure to comply with NRS 233B.130's service requirements.² Having reviewed the parties' arguments and the record on appeal, we conclude that Sadjadi did not satisfy NRS 233B.130(2)'s service requirements and that the district court therefore lacked jurisdiction to consider his petition. See *Heat & Frost Insulators & Allied Workers Local 16 v. Labor Comm'r*, 134 Nev. ___, ___, 408 P.3d 156, 159 (2018) (reviewing questions of law arising in the context

²The Insurer also argues that the district court was required to dismiss Sadjadi's petition because it did not comply with NRS 233B.130(2)(a)'s naming requirements and could not be amended after the filing deadline. But because Sadjadi either named the necessary parties in the caption of his original petition or referenced them in its body, he sufficiently complied with NRS 233B.130(2)(a)'s jurisdictional naming requirement, such that the district court's jurisdiction turns on whether he timely served them. See *Prevost v. State, Dep't of Admin.*, 134 Nev. ___, ___, 418 P.3d 675, 677 (2018) (holding that NRS 233B.130(2)(a)'s naming requirements are satisfied when the necessary parties are referenced in the petition's body and timely served).

of a petition for judicial review de novo); *see also* *Ogawa v. Ogawa*, 125 Nev. 660, 667, 221 P.3d 699, 704 (2009) (providing that jurisdiction is a question of law subject to de novo review).

In particular, within 45 days after filing his petition, Sadjadi was required to serve it on “[t]he Attorney General, or a person designated by the Attorney General, at the Office of the Attorney General in Carson City” as well as “[t]he person serving in the office of administrative head of the [NDA].” *See* NRS 233B.130(2), (5); *see also* *Heat*, 134 Nev. at ___, 408 P.3d at 159 (holding that NRS 233B.130’s service requirement is “mandatory and jurisdictional”). But nothing in the record demonstrates that Sadjadi served these specific entities within his time for doing so. And while the period for serving a petition for judicial review may be extended for good cause, *see* NRS 233B.130(5) (authorizing the district court to extend the time for serving a petition for judicial review based on good cause; *Heat*, 134 Nev. at ___, 408 P.3d at 160 (explaining that NRS 233B.130(5) permits the district court to extend the deadline for serving a petition for good cause, even where the petitioner does not request such an extension until after the service deadline expires), Sadjadi never sought such relief.

Moreover, although the district court nevertheless arguably found good cause for an extension insofar as it denied the Insurer’s motion to dismiss for lack of jurisdiction based on Sadjadi’s efforts to comply with NRS 233B.130,³ Sadjadi still has not served his petition in accordance with


³We note that the district court did not have the benefit of *Heat* at the time it denied the Insurer’s motion to dismiss, which likely explains why it did not specifically address whether Sadjadi established good cause for an extension of time to serve his petition.

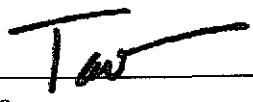
NRS 233B.130(2)(c). Indeed, while Sadjadi served his petition on the Nevada Attorney General's Las Vegas office, he never served it on "[t]he Attorney General, or a person designated by the Attorney General, at the Office of the Attorney General in Carson City." See NRS 233B.130(2)(c)(1); see also *Heat*, 134 Nev. at ___, 408 P.3d at 159 (mandating strict compliance with NRS 233B.130's service requirements). Likewise, while Sadjadi served his petition on the NDA's appeal's office, he never served it on "[t]he person serving in the office of administrative head of the [NDA]." See NRS 233B.130(2)(c)(2); see also *Heat*, 134 Nev. at ___, 408 P.3d at 159.


To the extent Sadjadi contends that the Insurer waived these issues on procedural grounds, his argument fails, as his noncompliance with NRS 233B.130 implicated the district court's subject matter jurisdiction, and defects in subject matter jurisdiction cannot be waived. See *Washoe Cty. v. Otto*, 128 Nev. 424, 434-35, 282 P.3d 719, 727 (2012) (explaining that a district court lacks subject matter jurisdiction to consider a petition for judicial review where the petitioner fails to comply with the statutory requirements for filing the petition); see also *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 276, 44 P.3d 506, 515-16 (2002) (providing that subject matter jurisdiction cannot be waived). Thus, because nothing in the record demonstrates that Sadjadi served his petition on the Nevada Attorney General's Carson City office or the NDA's administrative head, the district court lacked jurisdiction to consider his petition. See NRS 233B.130(2)(c); see also *Heat*, 134 Nev. at ___, 408 P.3d at 159. Consequently, we vacate the district court's order denying Sadjadi's petition and remand this matter to the district court for further proceedings consistent with this order and

Heat. 134 Nev. at ___, 408 P.3d at 160 (remanding for further proceedings with regard to NRS 233B.130's service requirements).

It is so ORDERED.⁴

, C.J.
Silver

, J.
Tao

, J.
Gibbons

cc: Hon. Jerry A. Wiese, District Judge
Hadi Sadjadi
Lewis Brisbois Bisgaard & Smith, LLP/Las Vegas
Eighth District Court Clerk

⁴Given our disposition of this appeal, we need not consider the parties' remaining arguments.