

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2666

September Term, 2015

JOHN GARY BOWERS et ux.

v.

ALLSTATE INSURANCE COMPANY et al.

Krauser, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 7, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

John Gary Bowers and Julianne Bowers, appellants, noted an appeal from an order of the Circuit Court for Baltimore County, dismissing their petition for judicial review of an agency decision on the ground that it was not timely filed.¹ We affirm.

After Allstate Insurance Company (“Allstate”) denied appellants’ claim for property damage, appellants filed a complaint with the Maryland Insurance Administration (“MIA”), requesting review. By letter dated April 14, 2015, MIA notified appellants of its determination that Allstate’s actions were not arbitrary or capricious, in bad faith, or in violation of Maryland insurance law. The letter advised appellants of their right to request a hearing on that determination, and further advised that they had 30 days to do so.²

By letter dated September 25, 2015, MIA denied appellants’ request for a hearing on the ground that it had not been received by the agency until well after the 30 day deadline.³ The agency advised appellants of their right, under Md. Code (1995, 2011 Repl.

¹ Appellants noted the instant appeal from the circuit court’s orders filed January 19, 2016, granting appellees’ motions to dismiss appellants’ petition for judicial review on the ground that it was not timely filed. As the only issue properly before us is whether the circuit court erred in dismissing the petition, we do not address any of the issues raised in appellants’ brief related to either the merits of the underlying complaint against Allstate Insurance Company, or the issue of whether MIA properly denied their request for a hearing on its April 14, 2015 determination that Allstate did not violate Maryland insurance law in denying their claim for property damage.

² See Md. Code (1995, 2011 Repl. Vol.), Insurance Article (“Ins.”), § 2-210; Code of Maryland Regulations (“COMAR”) 31.02.01.03(C).

³ Appellants maintain that they filed a request for hearing of the agency’s April 2015 decision on the merits of their complaint within the time period to do so. Whether they did or did not is not pertinent to the issue properly before us on appeal, which is whether the petition for judicial review of the agency’s denial of their request for a hearing was timely filed in the circuit court.

Vol.), Insurance Article (“Ins.”), § 2-215, to appeal the denial of their request for hearing, and further advised that any appeal must be filed within 30 days of the date of the letter.

Ins. § 2-215 governs appeals from actions of the MIA, and specifically provides for an appeal from “a refusal by the Commissioner to grant a hearing.” Ins. § 2-215(a)(2). Subsection (d)(3) of the statute sets forth the procedure and time for filing an appeal from various decisions of the MIA as follows:⁴

(d) *Filing petitions for judicial review* - To take an appeal, a person shall file a petition for judicial review with the appropriate circuit court within 30 days after:

- (1) the order resulting from the hearing was served on the persons entitled to receive it;
- (2) the order of the Commissioner denying rehearing or reargument was served on the persons entitled to receive it;
- (3) **the refusal of the Commissioner to grant a hearing;** or
- (4) the decision issued under § 15-10A-04 of this article was served on the persons entitled to receive it.

(Emphasis added).

Subsection (d)(3), which is applicable here, does not specify that the time to appeal a refusal to grant a hearing begins to run when “served on the persons entitled receive it,” as do subsections (d)(1), (2), and (4), which govern appeals from other orders or decisions.

⁴ Maryland Rule 7-203 generally sets forth the time for filing a petition for judicial review of an agency action, “[e]xcept as otherwise provided in this Rule or by statute.” (Emphasis added). Ins. §2-215(d) is one such exception to Rule 7-203.

Thus, the time to file the petition for judicial review was within 30 days from the date of MIA’s letter informing appellants that it had denied their request for hearing, or by October 26, 2015. The petition for judicial review was not filed, however, until November 5, 2015, after the 30 day deadline.⁵

Untimely filings of petitions for judicial review are governed by the law relating to statutes of limitations. *Colao v. Cty. Council of Prince George’s Cty.*, 346 Md. 342, 362 (1997). This includes the principle that, “where the legislature . . . has not expressly provided for an exception in a statute of limitations, the court will not allow any implied or equitable exception to be engrafted upon it.” *Id.* (citation and internal quotation marks omitted.) Accordingly, a circuit court has “no discretion to extend the thirty day deadline” within which to file a petition for judicial review, “even by two days.” *S.B. v. Anne Arundel Cty. Dep’t of Soc. Servs.*, 195 Md. App. 287, 309 (2010) (pertaining to the 30-day deadline under Md. Rule 7-203(a)(2)).

Because the petition for judicial review was not filed within the applicable time limit, we conclude that the circuit court did not err in granting appellees’ motions to dismiss appellants’ petition for judicial review. Furthermore, the court was not required to hold a hearing before doing so as neither appellants nor appellees requested a hearing on the motions to dismiss. *See* Maryland Rule 2-311(f) (providing that “[a] party desiring a

⁵ Appellants maintain that they “filed a complaint electronically” with the court on October 5, 2015. Although it appears that appellants emailed a “hearing request” to the circuit court on October 5, 2015, they were advised by the court on October 6, 2015 that electronic documents could not be accepted for filing, and that they must either mail or hand deliver the document to the court in order to file it. (see “Tab 3” attached to appellants’ response to appellees’ motion to dismiss).

hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request the hearing in the motion or response under the heading ‘Request for Hearing’” and further providing that “the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested.”) (Emphasis added)). We are aware that appellants are proceeding *pro se*, but we note that “[*p*]*ro se* parties must adhere to procedural rules in the same manner as those represented by counsel.” *Department of Labor, Licensing & Regulation v. Woodie*, 128 Md. App. 398, 411 (1999).

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**