

No 1-15-2346WC

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

KEVIN VAN DUYN,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County
)	
v.)	No. 14 L 50883
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i> ,)	Honorable
)	James M. McGing,
(Joseph Weil & Sons, Appellee).)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hudson, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held:* We dismissed this appeal for want of jurisdiction.

¶ 2 The claimant, Kevin Van Duyn, filed the instant appeal from an order of the circuit court of Cook County which reversed, in part, a decision of the Illinois Workers' Compensation Commission (Commission) and remanded the matter back to the Commission for a recalculation of the medical expenses due to him pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2000)). For the reasons which follow, we dismiss this appeal for want of jurisdiction.

¶ 3 Following a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)), the arbitrator determined that the claimant suffered an accident on November 29, 2001, that arose out of and in the course of his employment with Joseph Weil & Sons (Weil & Sons) and that his current conditions of ill-being in his right foot, low back and neck are causally related to his work accident. The arbitrator awarded the claimant temporary total disability (TTD) benefits for the following periods: November 30, 2001, through January 30, 2002; June 25, 2002, through July 2, 2002; and November 12, 2002, through October 17, 2012. The claimant was awarded permanent partial disability (PPD) benefits for a loss of 60% of a man as a whole pursuant to section 8(d)(2) of the Act (820 ILCS 305/8(d)(2) (West 2012)). Finally, the arbitrator held that the claimant was entitled to reimbursement of his medical expenses from the date of his work-related accident until October 17, 2012. The arbitrator specifically rejected an assertion by Weil & Sons, raised during the hearing, that a non-work related motor vehicle collision in which the claimant was involved on August 19, 2002, constituted an intervening accident which broke the chain of causation between the claimant's work-related accident of November 29, 2001, and his current condition of ill-being.

¶ 4 Weil & Sons filed a petition for review from the arbitrator's decision before the Commission. On October 29, 2014, the Commission issued a unanimous decision modifying the arbitrator's decision in part and affirming and adopting it in part. The Commission reversed the arbitrator's finding relating to the effect of the claimant's August 19, 2002, motor vehicle accident and held that it constituted an intervening accident which broke the causal chain between his November 29, 2001, work accident and his current condition of ill-being. The Commission concluded that the claimant was only entitled to TTD benefits from November 29,

2001, through January 30, 2002, when he returned to light-duty work. The Commission vacated arbitrator's PPD award, and awarded the claimant PPD benefits of \$252.41 per week for 15 1/2 weeks, reflecting a 10% loss of the use of his right foot pursuant to section 8(e)11 of the Act (820 ILCS 305/8(e)11 (West 2012)). Finally, the Commission ordered that the claimant be reimbursed for his reasonable and necessary medical expenses, but only through August 19, 2002, rather than October 17, 2012, as found by the arbitrator. Significantly, although the Commission pointed out that the claimant's right foot was the "only condition not affected by the automobile accident," it omitted making any provision for the ongoing medical expenses which he incurred for his right foot beyond August 19, 2002. The Commission otherwise affirmed and adopted the arbitrator's decision.

¶ 5 The claimant sought judicial review of the Commission's decision in the circuit court. On May 14, 2015, the circuit court entered an order confirming the Commission's decision in part, reversing it in part, and remanding the matter back to the Commission with directions. The circuit court confirmed the Commission's finding that the claimant's August 19, 2002, motor vehicle accident constituted an intervening cause that broke the causal connection between the present condition of ill-being of his neck and low back and his work-related accident of November 29, 2001. However, the court disagreed with the Commission's limitation of its award of medical expenses to the period ending August 19, 2002, noting the lack of any allegation or evidence that the injury to the claimant's right foot was exacerbated or affected by the motor vehicle accident. Consequently, the circuit court found that the accident could not be considered an intervening cause with regard to the present state of ill-being in the claimant's right foot. The circuit court concluded that the claimant should have been awarded the reimbursement of his

medical expenses for his right foot from November 29, 2001, through October 17, 2012. Accordingly, the court reversed the Commission's award of medical expenses and remanded the case to the Commission for a determination as to what, if any, medical expenses following the motor vehicle accident of August 19, 2002, are related to the treatment of the claimant's right foot, and to award the claimant any additional medical expenses to which he is entitled based upon that determination. The instant appeal followed.

¶ 6 The claimant argues that the Commission's determination that his motor vehicle accident of August 19, 2002, constituted an intervening accident that broke the causal connection between his work-related accident and his current condition of ill-being is contrary to the manifest weight of the evidence.

¶ 7 In its brief, Weil & Sons alludes to, but does not specifically argue, the issue of this court's jurisdiction. Nonetheless, this court is obligated to examine its jurisdiction *sua sponte*, as orders issued by this court in the absence of subject matter jurisdiction are void and of no effect. *Supreme Catering v. Illinois Workers' Compensation Comm'n*, 2012 IL App (1st) 111220WC, ¶ 7. The question of subject matter jurisdiction can neither be forfeited nor waived by consent of the parties. *Id.*

¶ 8 In general, an order of the circuit court which reverses a decision of the Commission and remands for further proceedings is not a final order for purposes of appeal. *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 516 (2003). An exception exists only in cases where the court has ordered the Commission on remand to act in accordance with specific directions or merely to make a mathematical calculation; in such instances, the circuit court's order is final and appealable. *Id.*; see also *Edmonds v. Illinois Workers' Compensation Comm'n*, 2012 IL App

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(5th) 110118WC, ¶ 19; *A.O. Smith Corp. v. Industrial Comm'n*, 109 Ill. 2d 52, 54-55 (1985).

This is not such a case.

¶ 9 Here, the circuit court reversed that portion of the Commission's decision limiting the medical expenses to which the claimant is entitled to those incurred prior to his August 19, 2002, motor vehicle accident, and remanded the matter to the Commission for a calculation of what, if any, medical expenses following that accident were "related" to the treatment of the claimant's foot from August 19, 2002, until October 2012.

¶ 10 During the course of the arbitration hearing, the claimant introduced medical bills reflecting, in relevant part, treatment and weekly physical therapy for his back and right ankle between May 2002, and May 2003. Throughout this time period, the claimant reported low back pain with pain radiating down his right leg. In June 2002, the claimant was referred to a neurologist for his neck, back and right ankle conditions, and he continued to treat with this doctor on a regular basis for all three conditions until 2012. In light of the claimant's complex medical bills, the Commission's task on remand of segregating and arriving at the total medical expense which the claimant incurred for the work-related injury to his right foot will amount to more than executing a simple calculation or administrative directive. We conclude, therefore, that the circuit court's order remanding this case to the Commission did not constitute a final and appealable order within the exception articulated in *Williams*, 336 Ill. App. 3d at 516-17. It is for this reason that we dismiss this appeal for want of jurisdiction and remand the matter to the Commission for further proceedings.

¶ 11 Dismissed and remanded.