

No. 1-16-1211WC

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

DANIEL SALINAS, JR.,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County
)	
v.)	No. 15 L 050484
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Alexander P. White,
(Northwestern University, Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The circuit court had no jurisdiction to amend its final order to reflect a different entry date, and we dismissed this appeal for want of appellate jurisdiction.

¶ 2 The claimant, Daniel Salinas, Jr., appeals from an order of the circuit which confirmed a decision of the Illinois Workers' Compensation Commission (Commission), awarding him limited benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)), for injuries he allegedly sustained on December 23, 2010, while working for

Northwestern University (Northwestern). For the reasons that follow, we dismiss this appeal for want of jurisdiction.

¶ 3 The claimant filed an application for adjustment of claim pursuant to the Act, seeking benefits for injuries he allegedly sustained on December 23, 2010, while in the employ of Northwestern. Following a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)), the arbitrator issued a decision finding that the claimant sustained an injury to his left knee, which arose out of and in the course of his employment with Northwestern. However, the arbitrator concluded that, other than the injury to his left knee, the claimant's current condition of ill-being is not related to his work accident. The arbitrator awarded the claimant 50 $\frac{6}{7}$ weeks of temporary total disability (TTD) benefits under section 8(b) of the Act (820 ILCS 305/8(b) (West 2012)) for the periods of December 24, 2010, to January 1, 2011, and March 20, 2012, through February 28, 2013. The arbitrator granted Northwestern credits of \$48,260.08 for TTD benefits paid to the claimant and \$65,200.59 for "other benefits paid." The arbitrator ordered Northwestern to pay the reasonable and necessary medical expenses incurred by the claimant from December 23, 2010, until February 13, 2013, pursuant to section 8(a) of the Act in amounts as provided in the medical fee schedule as set forth in section 8.2 of the Act (820 ILCS 305/8(a), 8.2 (West 2012)). The arbitrator also found that Northwestern is not responsible for any medical expenses incurred after February 13, 2013, and that the claimant had not proven his entitlement to prospective medical care.

¶ 4 The claimant filed for a review of the arbitrator's decision before the Commission. On June 11, 2015, the Commission issued a unanimous decision, affirming and adopting the arbitrator's decision and remanding the matter back to the arbitrator for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980).

¶ 5 The claimant sought a judicial review of the Commission's decision in the circuit court of Cook County. The matter was heard on January 14, 2016. Following that hearing, the circuit court entered an order which states that the matter was taken under advisement, a decision would be issued "on or about 2-25-16," and the parties would be "notified via phone when [the] decision is ready to be picked up." Apparently without notice to the parties, the circuit court's Opinion and Order, confirming the decision of the Commission, was entered on February 24, 2016.

¶ 6 On March 30, 2016, the claimant's attorney received a voice mail message from the trial judge's chambers, advising him that an order had been entered in this case and that a copy could be picked up in the courtroom. On March 31, 2016, the claimant's attorney went to the trial judge's courtroom and obtained a copy of the order. Upon examining the order, he discovered that it had been entered on February 24, 2016. The claimant's attorney called Northwestern's counsel who confirmed that he too had not received notice of the entry of the order until receiving a call on March 30, 2016.

¶ 7 On April 7, 2016, the claimant filed an emergency motion in the circuit court, asserting that neither his attorney nor Northwestern's attorney were notified of the entry of the February 24, 2016, order until March 30, 2016, and requesting that the circuit court amend or vacate the entry date of the order. In support of his motion, the claimant attached copies of e-mail correspondence between his attorney and Northwestern's attorney in which the latter confirmed that he had not received notice of the entry of the February 24, 2016, order until March 30, 2016, and wrote the following: "Considering the circumstances and the fact that the circuit court did not provide either of us notice of the decision until well after it was entered, I do not intend to object to your proposed motion to either change the date of the entry of the order or for an

extension for the time to file a notice of appeal as the case may be." On April 12, 2016, the claimant's motion was heard by the circuit court after which an order was entered amending the February 24, 2016, order to provide that it had been entered on March 30, 2016. On April 27, 2016, the claimant filed his notice of appeal.

¶ 8 Although the parties did not raise a question as to the circuit court's jurisdiction to enter its order of April 12, 2016, this court is required to do so *sua sponte*, because if the circuit court lacked subject matter jurisdiction, its order is void and of no effect. *Rojas v. Illinois Workers' Compensation Comm'n*, 406 Ill. App. 3d 965, 970 (2010). Failure of a party to object to the lack of subject matter jurisdiction cannot confer jurisdiction upon the court. *Taylor v. Industrial Comm'n*, 221 Ill. App. 3d 701, 703 (1991). Subject matter jurisdiction either exists or it does not, and it cannot be waived, stipulated to, or consented to by the parties. *Jones v. Industrial Comm'n*, 335 Ill. App. 3d 340, 343 (2002).

¶ 9 Under Illinois Supreme Court Rule 272 (eff. Nov. 1, 1990), a written judgment order is final when signed and filed with the clerk of the court. After 30 days has elapsed from the time that the circuit court enters a final order, the circuit court loses jurisdiction over the matters resolved in that order. *Mitchell v. Fiat-Allis, Inc.*, 158 Ill. 2d 143, 149 (1994).

¶ 10 In this case, the circuit court's order disposing of the claimant's petition for judicial review and confirming the Commission's decision was entered on February 24, 2016, and the circuit court lost jurisdiction to amend or vacate that order 30 days thereafter. The fact that the parties were not notified of the entry of the order until more than 30 days had elapsed is not material to the question of the circuit court's jurisdiction to entertain the claimant's emergency motion of April 7, 2016, or to enter its order of April 12, 2016. *Id.* Simply put, the circuit court lacked subject matter jurisdiction to amend its February 24, 2016, order to provide that it was

entered on March 30, 2016. Clearly, the circuit court entered its order of April 12, 2016, in an effort to ameliorate the effect of its failure to notify the parties of the entry of the February 24, 2016, order until the time to appeal that order had elapsed. Nevertheless, as our supreme court has noted, the circuit court lacks the authority to extend the time for filing of a notice of appeal. *Id.*

¶ 11 There are cases when the interests of finality are lessened and the circuit court should be revested with jurisdiction over a previously determined matter. *People v. Bainter*, 126 Ill.2d 292, 304-05 (1989). This is not such a case.

¶ 12 "[T]he three requirements for revestment of the court's jurisdiction are: (1) active participation by the parties; (2) without objection; (3) in proceedings inconsistent with the merits of the earlier judgment." *People v. Bailey*, 2014 IL 115459, ¶ 16. The requirements are distinct and individual. *Id.* ¶ 19. "If any one of the requirements remains unfulfilled, the revestment doctrine will not apply." *Id.*

¶ 13 In this case, Northwestern's counsel, *commendably under the circumstances*, agreed not to object to the claimant's emergency motion of April 7, 2016. There is no evidence, however, that the parties actively participated in the case after the trial court had lost jurisdiction or that the proceedings on the claimant's emergency motion were in any way inconsistent with the merits of the order of February 24, 2016. Therefore, the revestment doctrine is not applicable.

¶ 14 For the reasons stated, we find that the circuit court's order of April 12, 2016, is void for want of jurisdiction. That being the case, we must now examine our own jurisdiction to entertain this appeal. *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 515 (2003).

¶ 15 Final judgments of the circuit court are appealable as a matter of right, and an appeal is initiated by the filing of a notice of appeal. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994). However,

pursuant to the provisions of Illinois Supreme Court Rule 303(a)(1) (eff. Jan. 1, 2015), a notice of appeal must be filed with the clerk of the circuit court within 30 days of the entry of the order from which the appeal is taken in order to vest this court with jurisdiction. *Granite City Lodge No. 272, Loyal Order of the Moose v. City of Granite City*, 141 Ill. 2d 122, 126 (1990). In this case, the circuit court's order disposing of the claimant's petition for judicial review and confirming the Commission's decision was entered on February 24, 2016. The claimant's notice of appeal was not filed until April 27, 2016. As more than 30 days had elapsed since the entry of the circuit court's order of February 24, 2016, the claimant's notice of appeal did not vest this court with jurisdiction over the instant appeal.

¶ 16 Although the time for filing of a notice of appeal from the February 24, 2016, order had expired before the claimant's attorney was notified that the order had been entered, the claimant was not without recourse. Illinois Supreme Court Rule 303(d) (eff. Jan. 1, 2015) provides, in relevant part, that "[o]n motion supported by a showing of reasonable excuse for failure to file a notice of appeal on time *** filed in the reviewing court within 30 days after the expiration of the time for filing a notice of appeal, the reviewing court may grant leave to appeal ***." Suffice it to say, no such motion was ever filed with this court.

¶ 17 Although the result we reach is certainly a harsh one under the facts of this case, we are constrained by the holdings in both *Granite City*, 141 Ill. 2d at 126 and *Mitchell*, 158 Ill. 2d at 149. This appeal is dismissed for want of jurisdiction and the matter is remanded back to the Commission.

¶ 18 Dismissed and remanded.