

2017 IL App (1st) 162462WC-U

NO. 1-16-2462WC

Order filed: August 18, 2017

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

CHRISTOPHER BIEDRON,)	Appeal from the
)	Circuit Court of
Appellee,)	Cook County.
)	
v.)	No. 16-L-50011
)	
THE ILLINOIS WORKERS' COMPENSATION)	Honorable
COMMISSION, <i>et al.</i> (Traffic Services, Inc.,)	Kay M. Hanlon,
Appellant).)	Judge, presiding.

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

ORDER

¶ 1 *Held:* Appeal dismissed for want of appellate jurisdiction.

¶ 2 The employer, Traffic Services, Inc., appeals the order of the circuit court of Cook County which: (1) set aside the December 18, 2015, decision of the Illinois Workers' Compensation Commission (Commission) to deny benefits to the claimant, Christopher

Biedron, pursuant to the Illinois Workers' Compensation Act (the Act) (820 ILCS 310/1 *et seq.* (West 2012)); and (2) remanded this matter to the Commission with specific instructions that the Commission "address the facts presented to it under the repetitive trauma factors." For the reasons that follow, we conclude the Appellate Court does not have jurisdiction to review the circuit court's order, and we therefore dismiss this appeal.

¶ 3

FACTS

¶ 4 To provide the context necessary to understand our decision in this case, we set forth the following undisputed facts of record. Following a hearing, arbitrator Lynette Thompson-Smith issued a decision, and then a corrected decision, in which she made detailed findings of fact regarding the claimant's numerous and repetitive job responsibilities as a traffic control technician for the employer, working on various highway construction projects since 2004. The arbitrator's decision also discussed the claimant's medical history in detail, and noted the employer's argument that the claimant had failed to prove his current condition was related to his work duties because the employer contended the claimant had "given differing accounts, in the record, regarding the origin of his complaints." Subsequently, the arbitrator concluded that "the only explanation" for the claimant's current condition was "his heavy work duties," and that the claimant "suffered subsequent aggravations, first while twisting his back using his compression hammer and then later when he was bending at the waist and reaching into a storage box on his truck." Ultimately, the arbitrator concluded, "[t]here is no history of any other event to account for his complaints and no evidence of activity outside of work that would cause his current condition of ill-being." She found that the claimant had

proven, by a preponderance of the evidence, that he sustained accidental injuries that arose out of and in the course of his employment, and she awarded benefits accordingly.

¶ 5 The Commission issued its unanimous decision and opinion on review on December 18, 2015, in which it reversed the decision of the arbitrator. The Commission noted that the claimant had filed "two separate claims alleging specific lumbar work injuries on August 22, 2012, and May 21, 2013" and added that it appeared to the Commission that the claimant "was also attempting to intertwine a repetitive trauma lumbar claim even though no Application for Adjustment of Claim for that was filed and it isn't clear what manifestation date might be alleged." Nevertheless, the Commission stated that it found that the claimant "failed to prove either a repetitive trauma claim or any specific work injuries." The predominate focus of the rest of the Commission's decision and opinion was on the imprecision of the claimant's testimony with regard to his "alleged accident dates." Although the Commission noted several pieces of evidence that supported the inference that the claimant's injuries developed over time, the Commission did not directly address the law and facts related to repetitive trauma injuries, other than to state that the Commission found that one of the claimant's treating physicians "did not have a sufficiently detailed description of [the claimant's] job duties to give an opinion to a reasonable degree of medical certainty that [the claimant's] condition was due to repetitive trauma as opposed to a specific injury in June 2012," and then to later state that the Commission found "that no doctor had a sufficient description of [the claimant's] job duties to give an opinion to a reasonable degree of medical certainty that [the claimant's] condition was due to repetitive trauma." The Commission

concluded that based upon its specific findings, "and the record as a whole," the claimant "failed to prove he sustained any accidental injuries arising out of and in the course of his employment on August 22, 2012, or May 21, 2013, or due to repetitive trauma." Accordingly, the Commission denied the claimant's claim for compensation in its entirety.

¶ 6 The claimant sought, in the circuit court of Cook County, judicial review of the Commission's decision and opinion. On August 15, 2016, the circuit court entered the order the parties attempt to appeal. Therein, the circuit court noted, *inter alia*, some of the evidence in the record that the claimant's injuries developed over time, and expressed concern with the Commission's focus on the claimant's "inability to accurately and consistently explain when and where his symptoms began," noting that "[t]his is not something that serves to defeat a repetitive trauma claim as it is entirely reasonable that a claimant, who is not a medical professional, may have trouble explaining exactly when and how an ailment began." The circuit court's order stated that the claimant's testimony was "wholly consistent with a repetitive trauma claim" and reiterated that with regard to pinpointing a manifestation date, "[a] claimant cannot be expected to have the expertise of a medical professional." The order added that "[t]he record makes clear this matter involves a repetitive trauma injury," and stated that the Commission's decision ignored the principle that the Act is remedial in nature and is to be construed liberally to accomplish its purpose and objectives. Ultimately, the circuit court's order set aside the Commission's decision and remanded this matter to the Commission with specific

instructions that the Commission "address the facts presented to it under the repetitive trauma factors." This timely appeal followed.

¶ 7

ANALYSIS

¶ 8 Even when the parties to an appeal pursuant to the Act do not raise the issue of jurisdiction, this court has a *sua sponte* obligation, as a threshold matter, to determine if it has jurisdiction to entertain the appeal. See, e.g., *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 515 (2003). That is because, as the Supreme Court of Illinois has noted, this court's jurisdiction is " 'limited to reviewing appeals from final judgments, subject to statutory or supreme court rule exceptions.' " *Id.* (quoting *In re Marriage of Verdung*, 126 Ill. 2d 542, 553 (1989)). As a general proposition, " '[a] judgment is final for appeal purposes if it determines the litigation on the merits or some definite part thereof so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment.' " *Id.* When the circuit court reverses a decision of an administrative agency such as the Commission, and remands the matter to that agency "for further proceedings involving disputed questions of law or fact, the order is not final for purposes of appeal." *Id.* at 516. However, the order is final for purposes of an appeal if "the agency on remand has only to act in accordance with the directions of the court and conduct proceedings on uncontroverted incidental matters or merely make a mathematical calculation." *Id.*

¶ 9 In the statement of jurisdiction contained in its opening brief on appeal in this case, the employer asserts, without citation to authority, that this court has jurisdiction to entertain this appeal because the circuit court's order is "tantamount to a final order" because the order remanded the matter to the Commission for the Commission "to

perform a function it has already performed." In support of this proposition, the employer notes that the Commission stated in its original decision that the claimant "failed to prove either a repetitive trauma claim or any specific work injuries." We do not agree that for purposes of appeal the circuit court's order was "tantamount to a final order."

¶ 10 The circuit court's order requires more than a mere mathematical calculation, and also requires more than that the Commission act only in accordance with the directions of the court and conduct proceedings on uncontroverted incidental matters. Indeed, it requires the Commission to consider in detail the contested matter at the heart of this case, specifically instructing the Commission to "address the facts presented to it under the repetitive trauma factors." That said, the circuit court's order does not—and could not—direct the Commission to reach a specific outcome in favor of the claimant once the Commission has addressed the facts under the requisite factors. That province remains with the Commission, subject of course to statutory review, if desired by one or both parties, following the remand. In short, the matter remanded is one that involves the Commission's discretion, involving questions subject to dispute by the parties; accordingly, the circuit court's order is not final and this appeal must be dismissed for want of jurisdiction. See, *e.g.*, *Williams*, 336 Ill. App. 3d at 517.

¶ 11 CONCLUSION

¶ 12 For the foregoing reasons, we dismiss this appeal for want of jurisdiction.

¶ 13 Appeal dismissed.