

No. 1-23-0165WC

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

JOHN BARICKELLO,)	Appeal from the
)	Circuit Court of
Appellee,)	Cook County
)	
v.)	No. 21 L 50450
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Daniel P. Duffy,
(Precision Pipeline, LLC, Appellant).)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Mullen, Cavanagh, and Barberis concurred in the judgment.

ORDER

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

¶ 2 The claimant, John Barickello, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2008)), seeking benefits for injuries to his back sustained while working for Precision Pipeline, LLC (Precision), on September 17, 2009. The parties entered into a settlement of the claim on September 12, 2012 (Settlement

Agreement), which was approved by the Illinois Workers' Compensation Commission (Commission).

¶ 3 On February 20, 2020, the claimant filed a motion before the Commission to enforce the Settlement Agreement, requesting an order from the Commission requiring Precision to continue paying medical benefits. On September 22, 2021, the Commission entered a unanimous decision, denying the claimant's motion for want of jurisdiction. The Commission reasoned that it approved the parties Settlement Agreement on September 12, 2012, which became a final award when neither party filed a petition for review in the circuit court within 20 days of receipt of the approved Settlement Agreement. See 820 ILCS 305/19(f)(1) (West 2012); *Millennium Knickerbocker Hotel v. Illinois Workers' Compensation Comm'n*, 2017 IL App (1st) 161027WC, ¶ 19. The Commission found that it lacked the power to enforce its own awards; rather, the only method for enforcement of a final award of the Commission is by means of a petition in the circuit court pursuant to section 19(g) of the Act (820 ILCS 305/19(g) (West 2018)). See *Millennium Knickerbocker Hotel*, 2017 IL App (1st) 161027WC, ¶ 21.

¶ 4 On October 12, 2021, the claimant filed a petition for judicial review of the Commission's September 22, 2021, decision. The record reflects that he filed his request for Summons and Review on October 14, 2021. On January 21, 2022, Precision filed a motion to dismiss the claimant's action, asserting lack of jurisdiction by reason of the claimant's failure to comply with the requirements of section 19(f)(1) of the Act. The record reflects that the circuit court denied Precision's motion to dismiss on May 5, 2022. On May 16, 2022, Precision filed a motion for reconsideration of the order denying its motion to dismiss. It appears from the record that the circuit court viewed Precision's pleading as a renewed motion to dismiss, and on January 12, 2023, the circuit court denied Precision's renewed motion.

¶ 5 On January 25, 2023, Precision filed a notice of appeal with the clerk of the circuit court from an order in this case that was stated to have been entered on January 23, 2023. We find no order of the circuit court entered in this case on January 23, 2023. Apparently recognizing the error, on January 31, 2023, Precision filed a notice of appeal with the clerk of the circuit court from the circuit court's order of January 12, 2023, which denied its renewed motion to dismiss.

¶ 6 In its brief, Precision asserts that this court has jurisdiction over the instant appeal pursuant to Illinois Supreme Court Rules 301 (eff. Feb. 1, 1994) and 303 (eff. July 1, 2017). Rules 301 and 303 address appeals from final judgments of the circuit court. In his brief, the claimant argues that the order of January 12, 2023, which is the subject of this appeal, is not a final order, and, therefore, this court has no jurisdiction to entertain Precision's appeal. We agree with the claimant.

¶ 7 However, before addressing the jurisdictional issue presented in this case, we again find it necessary to admonish a litigant for failure to comply with the requirements for briefs filed with this court. Illinois Supreme Court Rule 341(h)(6) (eff. Oct. 1, 2020) requires that an appellant's brief contain a Statement of Facts "which shall contain the facts necessary to an understanding of the case *** with appropriate references to the pages of the record on appeal ***." Illinois Supreme Court Rule 341(h)(7) requires that an appellant's brief contain an Argument within which "references shall be made to the pages of the record on appeal where evidence may be found." The Statement of Facts and Argument sections in the appellant's brief fail to include even a single citation to the pages in the record where the factual assertions made therein may be found. Supreme Court rules "are not suggestions;" rather, they are rules which have the force of law, and the presumption is that they will be followed as written. *Bright v. Dicke*, 166 Ill. 2d 204, 210 (1995). This court has the discretion to strike an appellant's brief for failure to comply with the rules of the supreme court and dismiss the appeal. *Holzrichter v. Yorath*, 2013 IL App (1st) 110287, ¶ 77.

We elect not to do so in this case because the jurisdictional issue raised by the claimant is easily resolved.

¶ 8 The jurisdiction of the appellate court is limited to the review of final judgments, unless an exception is provided by statute or supreme court rule. *State Farm Mutual Automobile Insurance Co. v. Illinois Farmers Insurance Co.*, 226 Ill. 2d 395, 415 (2007); *Trunek v. Industrial Comm'n*, 345 Ill. App. 3d 126, 127 (2003). “A judgment is final for appeal purposes if it determines litigation on the merits or some definite part thereof so that, if affirmed, the only thing remaining is to proceed with execution of the judgment.” *In re Marriage of Verdung*, 126 Ill. 2d 542, 553 (1989). The denial of Precision’s motion to dismiss did not dispose of this litigation on the merits, and the denial of a motion to dismiss for want of subject matter jurisdiction is not among the interlocutory orders that are appealable as a matter of right pursuant to Illinois Supreme Court Rule 307 (eff. Nov. 1, 2017).

¶ 9 The circuit court's denial of a motion to dismiss is not a final and appealable order but, rather, is an interlocutory order. *State Farm Mutual Automobile Insurance Co.* 226 Ill. 2d at 415 (“It is *** well settled in this state that a trial court's denial of a motion to dismiss is an interlocutory order that is not final and appealable.”); *Van Der Hooning v. Board of Trustees of the University of Illinois*, 2012 IL App (1st) 111531, ¶ 6. When, as in this case, we are presented with an appeal from a non-final order that is not appealable under a supreme court rule providing for the appeal of an interlocutory order as a matter of right, our only course of action is to dismiss the appeal for want of jurisdiction.

¶ 10 For the reasons stated, we dismiss this appeal and remand the matter to the circuit court for further proceedings.

¶ 11 Dismissed.