

No. 1-13-1242

JESSE ROBISON,)	Appeal from the Circuit Court
)	of Cook County
Plaintiff-Appellant,)	
)	
v.)	
)	
KRAHL ASSOCIATES, INC. d/b/a KRAHL)	
CONSTRUCTION,)	
)	
Defendant-Appellant,)	No. 10 L 2807
)	
v.)	
)	
C.J. ERICKSON PLUMBING CO.,)	
)	
Defendant-Appellee,)	Honorable Lynn M. Egan,
)	Judge Presiding.
v.)	
)	
CHRISTY WEBBER LANDSCAPES,)	
)	
Third Party Defendant.)	
)	
)	

JUSTICE Reyes delivered the judgment of the court.
Justices Hall and Lampkin concurred in the judgment.

ORDER

¶ 1 *Held:* Appeal was dismissed for lack of jurisdiction.

¶ 2 Defendant, Krahl Associates, Inc. (Krahl) appeals an order of the circuit court of Cook

County granting summary judgment in favor of codefendant C.J. Erickson Plumbing Co. (Erickson) on the first amended complaint. On appeal, Krahl sets forth four errors committed by the circuit court in granting summary judgment in favor of Erickson: (1) the circumstantial evidence presented by defendant to the court is admissible and creates a genuine issue of material fact; (2) the circuit court improperly considered deposition testimony; (3) the circuit court incorrectly considered speculative testimony; and (4) the circuit court improperly employed a willful and wanton standard rather than a negligence standard when rendering its determination. For the reasons stated below, we dismiss the matter for lack of jurisdiction.

¶ 3 On March 4, 2010, Jesse Robison (Robison) filed a complaint against Krahl for negligence regarding a personal injury he suffered on March 17, 2009, when he fell into an exposed hole on a construction project in Millennium Park in Chicago. On September 13, 2011, Robison filed his first amended complaint adding two counts against Erickson for premises negligence and negligence. Robison alleged that Erickson, at the direction of Krahl, created the exposed opening by removing a grate from an air intake area.

¶ 4 On August 29, 2012, Erickson filed a motion for summary judgment alleging there was no genuine issue of material fact that it removed the grate and created the hole through which Robison fell. After the matter was fully briefed, the circuit court took the matter under advisement and issued a ruling on November 28, 2012, granting Erickson's motion for summary judgment and entering an Illinois Supreme Court Rule 304(a) finding. Ill. S. Ct. R. 304(a) (eff. Feb. 26, 2010).

¶ 5 On December 12, 2012, Krahl filed a motion to reconsider and was subsequently given

leave to amend its motion to reconsider on January 8, 2013. After the matter was fully briefed, the circuit court took the matter under advisement and denied the Krahl's motion to reconsider on March 11, 2013.

¶ 6 On Thursday, April 11, 2013, 31 days subsequent to the entry of the order denying Krahl's motion to reconsider, Krahl filed its notice of appeal. On April 12, 2013, Robison filed a notice to join Krahl's appeal.

¶ 7 We have an independent obligation to consider our jurisdiction and to dismiss when jurisdiction is lacking. *Quaid v. Baxter Healthcare Corp.*, 392 Ill. App. 3d 757, 765 (2009). Jurisdiction is conferred upon the appellate court only through the timely filing of a notice of appeal. *Berg v. Allied Security, Inc.*, 193 Ill. 2d 186, 189 (2000). "The timely filing of a notice of appeal is both jurisdictional and mandatory." *Secura Insurance Company v. Illinois Farmers Insurance Company*, 232 Ill. 2d 209, 213 (2009). Unless the appealing party has properly filed a notice of appeal, a reviewing court lacks jurisdiction over the appeal and must dismiss it. *People v. Smith*, 228 Ill. 2d 95, 104 (2008).

¶ 8 Rule 304(a) provides, "[t]he time for filing a notice of appeal shall be as provided in Rule 303." Ill. S. Ct. R. 304(a) (eff. Feb 26, 2010). According to Illinois Supreme Court Rule 303, a notice of appeal must be filed "within 30 days after the entry of the final judgment appealed from, or, if a timely posttrial motion directed against the judgment is filed, * * * within 30 days after the entry of the order disposing of the last pending postjudgment motion." Ill. S. Ct. R. 303(a)(1) (eff. June 4, 2008).

¶ 9 Here, the circuit court entered the order appealed from on March 11, 2013. Krahl did not

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file a notice of appeal until 31 days later, on Thursday, April 11, 2013. For that reason, Krahl's notice of appeal was not timely, and we lack jurisdiction over this appeal. See *In re C.J.*, 325 Ill. App. 3d 502, 506 (2001) (dismissing respondent's appeal from an order terminating her parental rights pursuant to Rule 303, as the notice of appeal was filed 31 days after the final order was entered); see *Gilkey v. Scholl*, 299 Ill. App. 3d 989, 992 (1992) (dismissing the matter for lack of jurisdiction due to the fact the notice of appeal was from a nonfinal order and filed 31 days after entry of that order).

¶ 10 For the foregoing reasons, we dismiss the appeal.

¶ 11 Dismissed.