

2011 IL App (2nd) 100853WC-U  
No. 2-10-0853WC  
Order filed October 31, 2011

IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

MICHAEL A. WHITE, SR.,	)	Appeal from
Respondent-Appellant,	)	Circuit Court of
v.	)	DuPage County
ILLINOIS WORKERS' COMPENSATION	)	No. 09MR1895
COMMISSION and BRIDGESTONE/FIRESTONE,	)	
Petitioners-Appellees.	)	Honorable
	)	Kenneth L. Popejoy,
	)	Judge Presiding.

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JUSTICE McCULLOUGH delivered the judgment of the court.  
Justices Hoffman, Hudson, Holdridge and Stewart concurred in the judgment.

**ORDER**

- ¶ 1 *Held:* Where the circuit court reversed a decision of the Workers' Compensation Commission and remanded the matter for further proceedings involving the resolution of questions of law or fact, the order was interlocutory and not appealable.
- ¶ 2 On August 13, 2002, claimant, Michael A. White, Sr., filed an application for adjustment of claim (No. 02WC41628) pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 through 30 (West 2000)), seeking benefits from employer, Bridgestone/Firestone, for repetitive trauma injuries suffered to his right wrist on July 27, 2001. On October 10, 2003, claimant filed an application for adjustment of claim (No. 03WC49475) pursuant to the Act seeking benefits from employer for repetitive trauma injuries suffered to his right wrist on July 23, 2002.

¶ 3 Following a consolidated hearing, an arbitrator found claimant proved he sustained injuries to each hand and to his left arm, arising out of and in the course of his employment with employer. The arbitrator awarded claimant temporary total disability (TTD) benefits in the amount of \$417.00 per week for a period of 28 2/7 weeks; permanent partial disability (PPD) benefits in the amount of \$375.30 per week for a period of 87.75 weeks, representing a 20% loss of use of each hand and a 5% loss of use of the left arm; and medical expenses in the amount of \$3,149.50.

¶ 4 On review, the Workers' Compensation Commission (Commission) modified the arbitrator's decision finding claimant proved he sustained injuries only to his right hand arising out of and in the course of his employment with employer. The Commission awarded claimant TTD benefits in the amount of \$417.00 per week for a period of 13 3/7 weeks; PPD benefits in the amount of \$375.30 per week for a period of 11.4 weeks, representing a 6% loss of use of the right hand; and medical expenses in the amount of \$2,029.00. In all other respects, the Commission affirmed and adopted the arbitrator's decision.

¶ 5 The circuit court (1) confirmed the Commission's decision finding claimant failed to prove he sustained injuries to his left arm arising out of and in the course of his employment with employer; (2) remanded the action back to the Commission "who is ordered to remand it to the Arbitrator to allow petitioner the opportunity to have the Arbitrator's Decision concerning the left carpal tunnel condition reviewed on the merits;" (3) reversed that portion of the Commission's decision reducing "the permanent partial disability award from 20% to 6% of a hand;" and (3) remanded the action back to the Commission for a "reasoned decision as to the proper award for permanent partial disability regarding the right hand."

¶ 6 Employer appeals, arguing (1) the Commission did not err by reversing "on procedural grounds and without prejudice the Arbitrator's award as it pertains to the left hand condition" where claimant failed to allege repetitive trauma injuries to his left wrist in his applications for benefits, and (2) the Commission's finding that claimant suffered a 6% loss of use of the right hand is not against the manifest weight of the evidence. We dismiss employer's appeal for lack of jurisdiction and remand to the Commission.

¶ 7 On August 13, 2002, claimant, filed an application for adjustment of claim (No. 02WC41628) seeking benefits from employer for repetitive trauma injuries suffered to his right wrist on July 27, 2001. On October 10, 2003, claimant filed an application for adjustment of claim (No. 03WC49475) seeking benefits from employer for repetitive trauma injuries suffered to his right wrist on July 23, 2002.

¶ 8 Following a consolidated hearing, the arbitrator found claimant proved he sustained injuries to each hand and to his left arm, arising out of and in the course of his employment with employer. The arbitrator awarded claimant TTD benefits in the amount of \$417.00 per week for a period of 28 2/7 weeks; PPD benefits in the amount of \$375.30 per week for a period of 87.75 weeks, representing a 20% loss of use of each hand and a 5% loss of use of the left arm; and medical expenses in the amount of \$3,149.50.

¶ 9 Employer sought a review of the arbitrator's decision before the Commission. The Commission modified the arbitrator's decision finding claimant proved he sustained injuries only to his right hand arising out of and in the course of his employment with employer. The Commission awarded claimant TTD benefits in the amount of \$417.00 per week for a period of 13 3/7 weeks; PPD benefits in the amount of \$375.30 per week for a period of 11.4 weeks,

representing a 6% loss of use of the right hand; and medical expenses in the amount of \$2,029.00. In all other respects, the Commission affirmed and adopted the arbitrator's decision.

¶ 10 Claimant sought a judicial review of the Commission's decision in the circuit court of DuPage County. The circuit court (1) confirmed the Commission's decision finding claimant failed to prove he sustained injuries to his left arm arising out of and in the course of his employment with employer; (2) remanded the action back to the Commission "who is ordered to remand it to the Arbitrator to allow petitioner the opportunity to have the Arbitrator's Decision concerning the left carpal tunnel condition reviewed on the merits;" (3) reversed that portion of the Commission's decision reducing "the permanent partial disability award from 20% to 6% of a hand;" and (3) remanded the action back to the Commission for a "reasoned decision as to the proper award for permanent partial disability regarding the right hand." Further, the circuit court stated its order was "final and appealable."

¶ 11 This appeal followed.

¶ 12 Employer appeals the circuit court's order pursuant to Illinois Supreme Court Rules 301 (Ill. S. Ct. R. 301 (eff. Feb.1, 1994)) and 303 (Ill. S. Ct. R. 303 (eff. May 30, 2008)). Employer raises two issues on appeal. We do not reach the merits of these issues because the circuit court's order was not a final, appealable order.

¶ 13 Employer asserts that this court has jurisdiction to address its appeal because the circuit court's order "indicates it is final and appealable." We disagree.

¶ 14 It is well settled that the jurisdiction of the appellate court is limited to review of final judgments, unless an exception is provided by statute or Supreme Court Rule. *In re Marriage of Verdung*, 126 Ill. 2d 542, 553, 535 N.E.2d 818, 823 (1989); accord *Pace Bus*

*Company v. Industrial Comm'n*, 337 Ill. App. 3d 1066, 1068, 787 N.E.2d 234, 236 (2003). "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." *In re Marriage of Verdung*, 126 Ill.2d at 553, 535 N.E.2d at 823. Our supreme court has repeatedly held that, when a circuit court reverses a decision of the Commission and remands the matter for further proceedings involving the resolution of questions of law or fact, the order is interlocutory and not appealable. *A.O. Smith Corp. v. Industrial Comm'n*, 109 Ill. 2d 52, 54, 485 N.E.2d 335, 336 (1985); *Stockton v. Industrial Comm'n*, 69 Ill. 2d 120, 124, 370 N.E.2d 548, 550 (1977). A trial court cannot make a non-final order appealable merely by stating it is a final order. An order must be final in its character, apart from the express finding. See *People ex rel., Valle v. Valle*, 113 Ill. App. 3d 682, 684, 447 N.E.2d 945, 948 (1983); *O'Donnell v. Sears, Roebuck & Co.*, 71 Ill. App. 3d 1, 6, 388 N.E.2d 1073, 1078 (1979).

¶ 15 This does not suggest that such an order can never be reviewed. The Commission's subsequent decision made pursuant to the remanding order is again reviewable by the circuit court, and, if affirmed, the decision of the circuit court is a final order which is appealable to this court. See *Pace Bus Co*, 337 Ill. App. 3d at 1069, 787 N.E.2d at 237. In reviewing the final order of the circuit court, this court is authorized to review the entire record and determine the propriety of the circuit court's order reversing the Commission's original decision and remanding the matter for further proceedings. *Pace Bus Co*, 337 Ill. App. 3d at 1069, 787 N.E.2d at 237.

¶ 16 Pursuant to the circuit court's remand in this case, the Commission would have to resolve a variety of questions involving fact and law. The circuit court's order, therefore, cannot be construed as a final order.

¶ 17 For the foregoing reasons, we lack jurisdiction to entertain employer's appeal.

¶ 18 Appeal dismissed and cause remanded to the Commission.