

NOTICE

Decision filed 04/25/11. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

NO. 5-10-0222WC

IN THE APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

DODGE MOVING AND STORAGE,)	Appeal from
Appellant,)	Circuit Court of
v.)	St. Clair County.
WORKERS' COMPENSATION COMM.)	No. 07-MR-290
<i>et al.</i>)	
(Bruce Rensing, Appellee).)	Honorable
)	Andrew J. Gleeson,
)	Judge, Presiding.

PRESIDING JUSTICE McCULLOUGH delivered the judgment of the court.

Justices Hoffman, Hudson, Holdridge, and Stewart concurred in the judgment.

ORDER

Held: No appellate jurisdiction exists where the circuit court remanded the case to the Illinois Workers' Compensation Commission for consideration of whether claimant was entitled to a wage differential under section 8(d)(1) of the Workers' Compensation Act, and employer filed a notice of appeal in the appellate court prior to the case being decided on remand.

In September 1998, claimant, Bruce Rensing, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 through 30 (West 1998)), seeking benefits from employer Dodge Moving and Storage (hereinafter employer), for injuries suffered to his right knee, right leg, right hip, and lower back on October 20, 1995. Following a hearing, an arbitrator found (1) claimant's current condition of ill-being was unrelated to the October 20, 1995, work injury; (2)

claimant was temporarily totally disabled from January 3, 1997, through January 27, 1997; (3) employer was not responsible for temporary total disability (TTD) claimed by claimant for July 23, 2002, and September 13, 2002, through September 16, 2002; (4) employer was not responsible for medical bills totaling \$62,626.88; (5) claimant sustained 40% permanent partial disability (PPD) to the right leg; and (6) claimant was not entitled to benefits for wage differential under section 8(d)(1) of the Act (820 ILCS 305/8(d)(1) (West 1998)).

Claimant filed a petition for review of the arbitrator's decision before the Workers' Compensation Commission (Commission), and the Commission affirmed and adopted the arbitrator's decision.

Claimant next sought administrative review of the Commission's decision in the circuit court. On April 12, 2010, the court (1) found claimant's current condition of ill-being was causally related to the work injury; (2) entered judgment in favor of claimant in the amount of \$62,626.88 for medical bills incurred in treatment of claimant's current condition and \$451.96 for TTD benefits for July 23, 2002, and September 13, 2002, through September 16, 2002; and (3) remanded to the Commission for consideration of whether claimant was entitled to benefits for wage differential or an increase in his PPD benefits.

Specifically, the circuit court found no evidence in

the record that an intervening incident had occurred after claimant's three initial surgeries. The court found the "meniscal transplant performed by Dr. Matava was to replace the cartilage removed in the initial surgeries that were found to be compensable and would be a natural consequence of them." Further, the court stated it would be inconsistent and against the manifest weight of the evidence to find the initial surgeries that removed the meniscus compensable and the surgeries replacing the meniscus noncompensable.

On May 6, 2010, employer filed a notice of appeal. On appeal, employer argues the circuit court erred in reversing the Commissions's finding that claimant's current condition of ill-being was not causally related to the October 20, 1995, work injury.

This appeal followed.

First, we note this case presents a question of appellate jurisdiction. At oral argument, employer argued this court has jurisdiction because the remand for consideration of the wage-differential issue and the PPD-benefits issue involved incidental matters and because the evidence that would be necessary to comply with the remand was already contained in the record. Claimant agreed with employer's position but admitted the Commission would be required to do more than just a simple mathematical calculation on remand. For the following reasons,

we find jurisdiction is lacking and dismiss the appeal.

Generally, a circuit court's order reversing the Commission's decision and remanding for further proceedings is interlocutory. *A. O. Smith Corp. v. Industrial Comm'n*, 109 Ill. 2d 52, 54, 485 N.E.2d 335, 336 (1985). "When the circuit court reverses a decision of an administrative agency and remands the case to the agency for further proceedings involving disputed questions of law or fact, the order is not final for purposes of appeal." *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 516, 784 N.E.2d 396, 399 (2003). However, the order is final for appeal purposes if, on remand, the agency only has to "act in accordance with the directions of the court and conduct proceedings on uncontroverted incidental matters or merely make a mathematical calculation." *Williams*, 336 Ill. App. 3d at 516, 784 N.E.2d at 399.

Here, the circuit court remanded the case to the Commission for consideration of whether plaintiff was entitled to wage-differential benefits or an increase in his PPD benefits. Because the circuit court remanded the case to the Commission for further proceedings to resolve the issues regarding wage-differential benefits and PPD benefits and not for a simple mathematical calculation, the circuit court's April 12, 2010, order is interlocutory in nature and not final for purposes of appeal.

For the foregoing reasons, we lack jurisdiction to

entertain employer's appeal, and we dismiss the appeal.

Appeal dismissed; cause remanded to the Commission.