

Order filed October 6, 2011

**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  
FOURTH DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

---

|   |   |                               |
|---|---|-------------------------------|
| KELLY MORRISON,                                 | ) | Appeal from the Circuit Court |
|   | ) | of Sangamon County.           |
| Appellant,                                      | ) |                               |
|   | ) |                               |
| v.  | ) | No. 09—MR—381                 |
|   | ) |                               |
| THE WORKERS' COMPENSATION                       | ) |                               |
| COMMISSION, et al.                              | ) |                               |
|   | ) | Honorable                     |
| (Lake Area Recycling Services, a Division       | ) | Leslie J. Graves,             |
| of Lake Area Disposal Service, Inc., Appellee). | ) | Judge, Presiding.             |

---

JUSTICE HUDSON delivered the judgment of the court.  
Presiding Justice McCullough and Justices Hoffman, Holdridge, and Stewart concurred in the judgment.

**ORDER**

*Held:* This court and the trial court lacked jurisdiction over this cause as the decision of the Illinois Workers' Compensation Commission sought to be appealed was not final.

¶1 Claimant, Kelly Morrison, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2002)) alleging she sustained

physical and psychological injuries while in the employ of respondent, Lake Area Recycling Services. The arbitrator found that claimant did sustain work-related physical injuries but had not proven that her psychological condition was work related. The Commission affirmed and adopted the decision of the arbitrator, with one modification. It ordered that claimant be afforded “the opportunity to undergo objective testing by a psychiatrist” and remanded to the arbitrator for that purpose. Notably, the Commission did not vacate the arbitrator’s finding that claimant’s psychological condition was not work related. Claimant sought review in the circuit court of Sangamon County. Pursuant to an agreement between the parties, the trial court entered an order remanding the cause to the Commission to explain and clarify its order, noting the inconsistency between its affirmance of the denial of compensation for psychological injuries and its allowance of claimant to undergo further psychological testing. On remand, the Commission vacated the arbitrator’s finding that claimant failed to prove her psychological condition was work related and again remanded to the arbitrator with directions to allow further psychological testing. Respondent then sought judicial review, arguing that the Commission exceeded its authority by vacating the arbitrator’s decision regarding claimant’s psychological condition, as the trial court had only directed the Commission to explain and clarify its earlier order. The trial court (with a new judge presiding) agreed, entering an order that simply stated that the Commission exceeded the scope of its directions on remand by addressing issues that were not part of its “remand directive.” The trial court explained that it had “ordered the Commission to explain or clarify the remand for further testing language [sic]; it did not instruct the Commission to revisit the issue of causation.” Claimant then appealed to this court. We, *via* minute order, found that the trial court’s order was not final and appealable, so we remanded the case to the trial court “for entry of an order of judgment.” The trial court then issued an order stating only that it “entered judgment” on its earlier order. Claimant again

appeals to this court, and that appeal is now before us. For the reasons that follow, we vacate all orders of the trial court and remand this matter to the Commission.

¶2 As a preliminary matter, we must address whether we have jurisdiction over this appeal. Courts have a duty to consider their own jurisdiction, irrespective of whether the parties question it. *Rojas v. Illinois Workers' Compensation Commission*, 406 Ill. App. 3d 965, 970 (2010). Where jurisdiction is lacking, a reviewing court must decline to proceed with an appeal. *Taylor v. Industrial Comm'n*, 221 Ill. App. 3d 701, 703 (1991). We lack jurisdiction here.

¶3 In *American Structures, Inc. v. Industrial Comm'n*, 99 Ill. 2d 40, 43 (1983), our supreme court explained that it had “held consistently that interlocutory orders of the [Commission] are not reviewable by the circuit court.” It continued, “only final determinations by the Commission are reviewable.” *American Structures, Inc. v. Industrial Comm'n*, 99 Ill. 2d at 43-44. For example, in *Residential Carpentry v. Kennedy*, 377 Ill. App. 3d 499, 504 (2007), we held that where the Commission had recalled a decision to correct a clerical error (see 820 ILCS 305/19(f) (West 2002)), the Commission’s order was not final and appealable until the Commission issued its correction.

¶4 In this case, the Commission remanded to the arbitrator. This rendered the Commission’s order not final and thus not appealable. See *Honda of Lisle v. Industrial Comm'n*, 269 Ill. App. 3d 412, 414-16 (1995) (holding that order of the Commission that included remand to the arbitrator was not final and not appealable). Accordingly, the trial court lacked jurisdiction over the order.

¶5 In light of foregoing, we vacate all orders of the trial court in this cause, dismiss this appeal, and we remand this case to the arbitrator for further proceedings. See *Honda of Lisle v. Industrial Comm'n*, 269 Ill. App. 3d at 416 (“Accordingly, because such an order is not final, this appeal is dismissed; and the cause is remanded to the arbitrator for further proceedings.”).

Circuit court orders vacated, appeal dismissed, cause remanded.