



defendants.

¶ 3 The claimant's workers' compensation case was scheduled for an arbitration hearing to be held on September 11, 2008. Prior to the arbitration hearing, Travelers filed a motion to intervene in the claimant's workers' compensation proceeding. In its motion, Travelers alleged that the claimant's lawsuit pending in the circuit court was related to the work accident and his workers' compensation insurance coverage. It requested the arbitrator not to hold an arbitration hearing and defer to the circuit court or, alternatively, to allow it to intervene pursuant to section 4(g) of the Act (820 ILCS 305/4(g) (West 2008)), which provides that an "insurance carrier may be made a party to the proceedings in which the employer is a party."

¶ 4 The arbitrator denied Travelers' motion to intervene. In denying Travelers' motion, the arbitrator noted that whether there was insurance coverage was not an issue that would be addressed in the arbitration hearing. Instead, the issue of coverage was a contractual issue that was for the circuit court to decide. The arbitrator, therefore, concluded that there was no need for Travelers to intervene. At the conclusion of the arbitration hearing, the arbitrator found that the claimant sustained injuries as a result of a workplace accident and awarded him benefits under the Act, including temporary total disability benefits, wage differential benefits, and medical expenses.

¶ 5 Travelers filed a petition to review the arbitrator's decision with the Illinois Workers' Compensation Commission (the Commission). Travelers alleged that it was pursuing the review "as proposed intervening respondent." The claimant moved to dismiss Travelers' petition for review. The Commission granted the claimant's motion to dismiss, ruling that Travelers lacked standing to seek a review of the arbitrator's decision because it was not a party to the workers' compensation proceeding. The Commission noted that section 19(b) of the Act (820 ILCS 305/19(b) (West 2010)) only allows parties to the underlying claim to

file a review. The claimant had the option of naming Travelers as an additional respondent under section 4(g) of the Act but had no obligation to do so. The Commission also noted that Travelers could have filed a special and limited appearance on behalf of the respondent and defended the claim under a reservation of rights, but opted not to do so. The Commission stated, "Travelers took no formal action with respect to petitioner's workers' compensation claim until 2008 and, even then, simply attempted to appear on its own behalf."

¶ 6 Travelers appealed the Commission's decision to the circuit court. The claimant filed a motion to dismiss Travelers' appeal pursuant to section 2-619 of the Code of Civil Procedure (735 ILCS 5/2-619 (West 2010)). The circuit court entered a judgment granting the claimant's motion to dismiss. The court agreed with the Commission that because Travelers was not a party to the workers' compensation claim, it did not have standing to review the arbitrator's decision or seek a review of the Commission's decision.

¶ 7 Travelers now appeals the circuit court's judgment.

¶ 8 DISCUSSION

¶ 9 The claimant filed a motion to dismiss this appeal, and we took the motion with the case. After reviewing the claimant's motion and Travelers' response, we find that oral argument would be of no assistance to the court in reaching a decision in this case. Therefore, we have taken the case under advisement without oral argument pursuant to Illinois Supreme Court Rule 352(a) (eff. Feb. 6, 2013), and we grant the claimant's motion to dismiss this appeal.

¶ 10 Our decision to dismiss this appeal is controlled by our recent decision in *QBE Insurance Co. v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120336WC. In that case, the claimant sought benefits under the Workers' Compensation Act for repetitive trauma injuries, and he named only himself and his employer in the application. An arbitrator found that the claimant's injuries were causally related to his work and ordered the

employer to compensate the claimant for medical expenses and medical treatments. The employer's workers' compensation insurance carrier, QBE, filed a petition for review of the arbitrator's decision before the Commission and later requested the Commission to add it as a "named party" in the case. QBE alleged that the claimant amended his application "at the time of trial" to allege an accident date that brought his claim into the policy coverage dates of QBE's insurance policy. Therefore, QBE argued, it did not receive notice of the claim until after the arbitration hearing took place and the proofs were closed. *Id.* ¶ 8. QBE cited section 4(g) of the Act in support of its request. *Id.* ¶ 9.

¶ 11 The Commission granted QBE's motion, and QBE filed a statement of exceptions to the arbitrator's decision. *Id.* ¶¶ 10-11. When the Commission affirmed and adopted the arbitrator's decision, QBE appealed the Commission's decision to the circuit court, and the circuit court entered a judgment that confirmed the Commission's decision. *Id.* ¶¶ 11-13. QBE appealed the circuit court's judgment, and we dismissed QBE's appeal for lack of jurisdiction.

¶ 12 In dismissing QBE's appeal, we emphasized that the purpose of the Act is to compensate claimants as early as possible for income lost due to job-related injuries. *Id.*

¶ 20. The purposes of the Act do not concern themselves with an insurer's interest in intervention. *Id.* The claimant did not name QBE as a party, and with respect to the issues before the arbitrator, "it was immaterial to claimant who, as between the employer and its insurer, was ultimately chargeable with the payment of compensation for his injuries." *Id.*

¶ 21. We held that "[t]he Act does not mandate that the insurance carrier be made a party to the proceedings," but section 4(g) "merely provides that the insurance carrier 'may be made a party to the proceedings' in the event the employer does not pay the award." *Id.* ¶ 22 (quoting 820 ILCS 305/4(g) (West 2008)). "We have found neither a provision in the Act nor any Illinois case which provides for intervention following a section 19(b) award by an

insurer who was not a party to the proceedings and where the claimant chose to bring his claim against the employer alone." *Id.* ¶ 24. Accordingly, in *QBE*, "we vacate[d] the Commission's order granting QBE's motion to add QBE as a named party and dismiss[ed] [the] appeal for lack of jurisdiction." *Id.*

¶ 13 Likewise, in the present case, we must dismiss this appeal for lack of jurisdiction. As the Commission noted, Travelers was not a party to the workers' compensation claim. The claimant could have named Travelers as an additional respondent under section 4(g), but he was not required to do so. Travelers could have filed a special and limited appearance on behalf of the respondent and defended the claim under a reservation of rights, but opted not to do so. Nothing in the Act grants it a right to intervene in the arbitration hearing or in the proceeding before the Commission. It has no standing to obtain a review of the Commission's decision, and we lack jurisdiction to consider its appeal.

¶ 14 CONCLUSION

¶ 15 For the foregoing reasons, Travelers' appeal is hereby dismissed for lack of jurisdiction.

¶ 16 Appeal dismissed.