

No. 1-12-3627WC

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
FIRST DISTRICT

CORN PRODUCTS INTERNATIONAL,)	Appeal from the Circuit Court
)	of Cook County.
)	
Appellant,)	
)	
v.)	No. 12-L-50455
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i> ,)	Honorable
)	Margaret Ann Brennan,
(Wanda Holmes, Appellee).)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hudson, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held:* The employer's appeal was dismissed for lack of jurisdiction.

¶ 2 Corn Products International (Corn Products) appeals from the circuit court order which reversed the decision of the Workers' Compensation Commission (Commission) to deny reinstatement of the action filed by the claimant, Wanda Holmes. Prior to the Commission's

decision, the claimant's action, which sought benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2006)) for injuries she allegedly sustained while in the employ of Corn Products, had been dismissed for want of prosecution on five occasions. For the reasons that follow, we dismiss this appeal for lack of jurisdiction.

¶ 3 On April 27, 2004, the claimant filed her first claim for a June 6, 2002, injury to her right hand. On December 16, 2006, she filed a second claim for repetitive-use injuries to her right and left wrists. On December 29, 2006, the claims were consolidated by the arbitrator presiding over the case. As stated, the case was dismissed on five occasions for want of prosecution. The dates of the dismissals were October 5, 2007; April 8, 2008; March 9, 2009; December 8, 2009; and April 5, 2011.

¶ 4 In the claimant's June 3, 2011, petition to reinstate the case for the fifth time, counsel alleged that he failed to appear before the arbitrator on April 5 because he had to appear in Cook County circuit court for another case and the conflict could not be avoided. Corn Products filed a motion to deny the claimant's petition, stating that the arbitrator had warned the claimant the last time the case was reinstated that, because of the case's long history, any future requests for reinstatement would be denied. On July 29, 2011, the arbitrator granted Corn Products' motion and denied the claimant's petition.

¶ 5 The claimant sought review before the Commission, arguing that the arbitrator erred in denying reinstatement of her case. On March 9, 2012, the Commission unanimously affirmed the arbitrator's decision.

¶ 6 The claimant sought judicial review of the Commission's decision in the circuit court of Cook County. After a hearing on November 8, 2012, the circuit court reversed the Commission's decision, stating that the Commission had abused its discretion in refusing to reinstate the

claimant's case, and remanded the cause to the Commission. Corn Products now appeals pursuant to Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994).

¶ 7 We first note that a potential jurisdictional issue exists in this case. "Though it was not raised by the parties, we have a duty to consider our jurisdiction over an appeal and dismiss it if jurisdiction is lacking." *St. Elizabeth's Hosp. v. Workers' Comp. Comm'n*, 371 Ill. App. 3d 882, 883, 864 N.E.2d 266, 268 (2007). When a circuit court reverses a decision of the Commission and remands the matter for further proceedings which involve the resolution of factual or legal questions, the order is interlocutory and not appealable. *Trunek v. Indus. Comm'n*, 345 Ill. App. 3d 126, 127, 802 N.E.2d 1268, 1269 (2003).

¶ 8 In *Trunek*, the Commission affirmed and adopted the arbitrator's decision denying the claimant's petition to reinstate her claim, which was dismissed for want of prosecution. *Id.* at 127. The claimant sought judicial review of the Commission's decision, and the circuit court reversed and remanded the case to the Commission with instructions to reinstate the claimant's case and proceed with a hearing on the merits. *Id.* The employer appealed under Rule 301. *Id.* This court dismissed the appeal for lack of jurisdiction, finding that the Commission would have a variety of factual and legal questions to resolve upon remand and, therefore, the circuit court's order could not be construed as a final order. *Id.* at 128. Likewise, in this case, the circuit court reversed the Commission's decision and ordered it to reinstate the claimant's case, meaning it would be required to resolve several factual and legal questions. Thus, the circuit court's order in this case cannot be construed as a final order.

¶ 9 We further note that Corn Products could have appealed the circuit court's order had it followed the procedural requirements set forth in Illinois Supreme Court Rule 306(a)(6) (eff. Feb. 16, 2011). Rule 306(a)(6) provides that a party may petition for leave to appeal "from an

order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency." Ill. S. Ct. R. 306(a)(6) (eff. Feb. 16, 2011). However, like the employer in *Trunek*, Corn Products incorrectly relied upon Rule 301 for its jurisdiction and failed to follow the requirements under Rule 306(a)(6) for seeking leave to appeal by filing a petition before this court. See Ill. S. Ct. R. 306(c) (eff. Feb. 16, 2011) (setting forth procedure for petitions under rule).

¶ 10 Based on the foregoing reasons, we lack jurisdiction to entertain Corn Products's appeal and dismiss this appeal accordingly.

¶ 11 Appeal dismissed and cause remanded to the Commission.