

2016 IL App (1st) 150476WC-U
No. 1-15-0476WC
Order filed: January 8, 2016

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
WORKERS' COMPENSATION COMMISSION DIVISION

THE HARTFORD and RUBSHLAGER BAKING CORPORATION,)	Appeal from the Circuit Court of Cook County
)	
Plaintiff-Appellant,)	
)	
v.)	No. 13-L-1082
)	
ILLINOIS WORKERS' COMPENSATION COMMISSION and JOSE PENA,)	Honorable
)	Carl Anthony Walker,
Defendant-Appellant.)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The reviewing court lacked jurisdiction over this appeal where the trial court remanded matter and the remand entailed further proceedings before the arbitrator and Commission.

¶ 2 Respondent, the Hartford & Rubschlager Baking Corporation, appeals an order of the circuit court of Cook County confirming a decision of the Illinois Workers' Compensation Commission (Commission) that set aside a previously approved settlement contract and ordered

that “the matter be randomly assigned to another Arbitrator sitting in Chicago for proceedings consistent with this order.” As we will explain, this did not constitute a final order. Therefore, we lack jurisdiction over this appeal, and we dismiss it.

¶ 3 On March 15, 2012, respondent and claimant, Jose Pena, entered into a settlement agreement regarding a right-knee injury sustained by claimant, which necessitated surgery. Claimant was not represented by counsel. His daughter was present to translate for him, as claimant predominantly speaks Spanish. The parties settled for \$1,432.94. Claimant subsequently successfully moved to vacate the settlement, and respondent sought review before the circuit court. The circuit court confirmed and remanded for “further proceedings.” Respondent then appealed to this court.

¶ 4 Claimant contends, and we agree, that we lack jurisdiction over this appeal. After the Commission vacated the settlement, it remanded for “the matter be randomly assigned to another Arbitrator sitting in Chicago for proceedings consistent with this order.” The trial court, on judicial review, remanded “for further proceedings.” Obviously, both remands contemplated further proceedings. Where a case is remanded for further proceedings, such orders are interlocutory and not appealable. *Stockton v. Industrial Comm’n*, 69 Ill. 2d 120, 124 (1977). Thus, the trial court’s order in this case could not be appealed. An exception exists where the Commission “has only to act in accordance with the directions of the court and conduct proceedings on uncontroverted incidental matters or merely make a mathematical calculation.” *Edmonds v. Illinois Workers’ Compensation Comm’n*, 2012 IL App (5th) 110118WC, ¶ 19. This exception clearly does not apply here, for the Commission directed that the cause be assigned to an arbitrator, essentially placing the parties at the beginning of the arbitration process. Thus, we do not have jurisdiction over this appeal, and we must dismiss it. Where this court lacks

jurisdiction over a case, our only course is to announce the fact and dismiss the appeal. See *Cohen v. Salata*, 303 Ill. App. 3d 1060, 1066 (1999).

¶ 5 Respondent relies on *Michelson v. Industrial Comm'n*, 375 Ill. 462 (1941), in arguing that we have jurisdiction over this appeal. In *Michelson*, 375 Ill. at 465, the supreme court stated, “Since the order setting aside the approval of the lump sum settlement disposed of the rights of the parties under it, that order was final, and defendant in error’s first contention cannot be sustained.” This is the entirety of the supreme court’s analysis of the issue in that case. The details of the order are not set forth in the facts of *Michelson*, and it is not explained why this order was final. Indeed, it is not clear to us why this order was deemed final (though there was no indication in *Michelson* that the trial court remanded the case to the Commission).

¶ 6 In any event, as we explain above, the order in this case was clearly not final, as it contemplated further proceedings on remand. As *Michelson* involved a final order, it provides no guidance here.

¶ 7 In light of the foregoing, we hold that we lack jurisdiction over this appeal. Accordingly, our only option is to dismiss it.

¶ 8 Appeal dismissed.