

2016 IL App (1st) 150716WC-U  
No. 1-15-0716WC  
Order filed: February 11, 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).

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

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PROVISO HIGH SCHOOL DISTRICT #209, )      Appeal from the Circuit Court  
  )      of Cook County.  
Plaintiff-Appellant,                    )  
  )  
v.    )      No.     14-L-50535  
  )  
THE ILLINOIS WORKERS'                )  
COMPENSATION COMMISSION and        )  
TRACY MCCORMICK,                    )      Honorable  
  )      James M. McGing,  
Defendants-Appellees.                )      Judge, Presiding.

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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 judgment of the circuit court, which set aside the decision of the Commission and remanded the matter for further proceedings, did not constitute a final, appealable order. Therefore, the appellate court lacked jurisdiction to consider the propriety of the circuit court's ruling and would dismiss respondent's appeal.

¶ 2

## I. INTRODUCTION

¶ 3 Respondent, Proviso High School District No. 209, appeals from the judgment of the circuit court of Cook County setting aside a decision of the Illinois Workers' Compensation Commission (Commission) and remanding the matter to the Commission "for a calculation of the benefits owed" to claimant, Tracy McCormick. On appeal, respondent argues that the circuit court erred in setting aside the Commission's finding that claimant's condition of ill-being after June 28, 2013, is not causally related to her work accident. For the reasons set forth below, we dismiss the appeal for lack of jurisdiction.

¶ 4

## II. BACKGROUND

¶ 5 Claimant works for respondent in various capacities, including a wellness instructor, a behind-the-wheel driver's education instructor, and a department chairperson. It is undisputed that on February 27, 2013, claimant sustained accidental injuries arising out of and in the course of her employment. On that date, a coworker drove claimant from Proviso Math & Science Academy (claimant's worksite) to Proviso East High School to pick up a car used for driver's education. While exiting the vehicle being driven by the coworker, claimant stepped into an uncovered manhole with her left leg, causing it to strike the front of the manhole and her left shoulder to hit the ground. Claimant subsequently began a course of treatment for injuries to various parts of her body, including her left knee, left shoulder, and lower back. She also sought benefits for her injuries pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)).

¶ 6 The matter proceeded to an arbitration hearing on August 12, 2013, pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)). Following the hearing, the arbitrator concluded that claimant failed to prove that her condition of ill-being subsequent to June 28,

2013, was causally related to her work accident of February 27, 2013. In support of this finding, the arbitrator cited: (1) claimant's testimony that her left shoulder and back conditions had completely resolved and that she is no longer undergoing treatment for either condition; (2) the independent medical examination (see 820 ILCS 305/12 (West 2012)) of Dr. G. Klaud Miller, who, in a report dated June 28, 2013, concluded that claimant's symptoms had resolved and that she did not require further treatment; and (3) surveillance video of claimant's activities in May 2013, which, according to the arbitrator, "clearly depict a woman who is not in apparent distress." The arbitrator ordered respondent to pay claimant (1) temporary total disability (TTD) benefits of \$1,196.69 per week for 11-5/7 weeks, from April 8, 2013 (the date claimant was taken off work by her doctor), through June 28, 2013 (the date of Dr. Miller's report), and (2) reasonable and necessary medical expenses incurred through June 28, 2013. The arbitrator denied an award of prospective medical care.

¶ 7 The Commission affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). In an order dated February 11, 2015, the circuit court of Cook County concluded that the Commission's finding that claimant's condition of ill-being after June 28, 2013, is not causally related to her work accident is against the manifest weight of the evidence. Thus, the court set aside the Commission's causation finding and remanded the matter "for a calculation of the benefits owed [claimant]." This appeal by respondent followed.

¶ 8

### III. ANALYSIS

¶ 9 On appeal, respondent argues that the circuit court erred in setting aside the Commission's finding that claimant's condition of ill-being subsequent to June 28, 2013, is not causally related to her industrial accident. Before addressing this issue, we must first consider

whether we have jurisdiction to review the circuit court's order. Claimant contends that the circuit court order setting aside the decision of the Commission and remanding the matter for further proceedings is interlocutory and, therefore, not appealable. According to claimant, there are several matters for the Commission to determine on remand, including causal connection, medical expenses, prospective medical care, past and future TTD benefits, and, potentially, permanency. As a result, claimant requests the dismissal of the instant appeal to allow the Commission to resolve these issues.

¶ 10 Respondent concedes that a case that has been remanded to the Commission for further proceedings is ordinarily interlocutory in nature and not appealable. Respondent notes, however, that the circuit court remanded this matter to the Commission for "a calculation of the benefits owed [claimant]." Relying on *A.O. Smith Corp. v. Industrial Comm'n*, 109 Ill. 2d 52 (1985), respondent asserts that we may consider the merits of the present appeal because the circuit court's remand order requires only that the Commission engage in "a simple mathematical process."

¶ 11 Absent a statutory or supreme court rule exception, the jurisdiction of a reviewing court is limited to deciding appeals from final judgments. Illinois Supreme Court Rule 301 (eff. Feb. 1, 1994) ("Every *final* judgment of a circuit court in a civil case is appealable as of right." (Emphasis added.)); *Trunek v. Industrial Comm'n.*, 345 Ill. App. 3d 126, 127 (2003). "A judgment is final for appeal purposes if it determines the litigation on the merits or some definite part thereof so that, if affirmed, the only thing remaining is to proceed with the execution of the judgment." *In re Marriage of Verdung*, 126 Ill. 2d 542, 553 (1989). Hence, in the context of a workers' compensation claim, when the circuit court reverses a decision of the Commission and remands the matter for further proceedings involving disputed questions of law or fact, the

circuit court order is not final for purposes of appeal. *Stockton v. Industrial Comm'n*, 69 Ill. 2d 120, 124-25 (1977); *St. Elizabeth's Hospital v. Illinois Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 883-84 (2007); *Roadway Express, Inc. v. Industrial Comm'n.*, 347 Ill. App. 3d 1015, 1020-21 (2004); *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 516 (2003); *Kendall County Public Defender's Office v. Industrial Comm'n*, 304 Ill. App. 3d 271, 273 (1999). Conversely, if the trial court's instructions on remand require only that the Commission "act in accordance with the directions of the court and conduct proceedings on uncontested incidental matters or \* \* \* make a mathematical calculation," then the court's order is final for purposes of appeal. *Williams*, 336 Ill. App. 3d at 516 (citing *A.O. Smith*, 109 Ill. 2d at 54-55, and *Wilkey v. Illinois Racing Board*, 96 Ill. 2d 245, 249-50 (1983)); see also *St. Elizabeth's Hospital*, 371 Ill. App. 3d at 884; *Roadway Express*, 347 Ill. App. 3d at 1020. Where a party attempts to appeal an interlocutory or nonfinal order to this court, we are without jurisdiction to consider the appeal. *Kendall County Public Defender's Office*, 304 Ill. App. 3d at 273.

¶ 12 As noted above, in affirming and adopting the decision of the arbitrator, the Commission determined that claimant's condition of ill-being after June 28, 2013, was not causally related to her work accident. The Commission awarded claimant TTD benefits for the period from April 8, 2013, through June 28, 2013, and medical expenses incurred through June 28, 2013, but denied prospective medical care. The circuit court set aside the Commission's finding that claimant's condition of ill-being subsequent to June 28, 2013, is not causally related to her industrial accident. The court then remanded the matter "for a calculation of the benefits owed [claimant]." The circuit court's instruction suggests that a remand to the Commission will involve only a simple calculation. However, we must go beyond the language used by the circuit court and determine whether the Commission must truly engage in only a simple mathematical

process or whether it must do something more. See *Wilkey*, 96 Ill. 2d at 249 (cautioning that “the finality of an order is not necessarily determined by its form.”). After reviewing the record, we find that, upon remand, the Commission will be required to do something more than a simple mathematical calculation. Notably, the circuit court reversed and remanded the matter to the Commission for a finding that claimant’s condition of ill-being after June 28, 2013, is causally related to her work accident. Thus, the Commission will be required to review all the controverted and relevant facts and provide both a factual and legal basis for a finding of causation subsequent to June 28, 2013. See *Roadway Express, Inc.*, 347 Ill. App. 3d at 1021. This, in turn, will require an assessment of whether claimant is entitled to an award of additional TTD benefits, reasonable and necessary medical expenses, and prospective medical care. In light of the circuit court’s remand instruction, we find that the court’s order is not final, and we lack jurisdiction to consider respondent’s appeal.

¶ 13 Respondent’s reliance on *A.O. Smith*, 109 Ill. 2d 52, does not persuade us otherwise. In *A.O. Smith*, an employee died as the result of a compensable work injury which occurred nine years earlier. At issue in the case was whether the amount of compensation due the decedent’s survivors was to be determined by the statute in effect on the date of the decedent’s injury or the statute in effect on the date of the decedent’s death. *A.O. Smith*, 109 Ill. 2d at 54-55. The arbitrator applied the statute in effect on the date of the decedent’s injury, and the Commission affirmed. However, the circuit court determined that the statute in effect at the time of the decedent’s death should apply, so it set aside the decision of the Commission and remanded the matter for a proper calculation. The appellate court affirmed the judgment of the circuit court. Subsequently, the supreme court granted leave to appeal and affirmed the judgment of the appellate court. *A.O. Smith*, 109 Ill. 2d at 54-58. Relevant here, prior to addressing the merits,

the supreme court determined that the circuit court's order was final and appealable despite the presence of remand language. *A.O. Smith*, 109 Ill. 2d at 54-55. The court explained:

“This court has held that an order reversing an award and remanding to the \*\*\* Commission is interlocutory and not appealable. [Citations.] Ordinarily we would dismiss the appeal on the ground that the order is not final and appealable, but in this instance we elect not to do so. The parties have stipulated to the facts, including the amount of the decedent's earnings and the weekly benefits payable if the statute at the time of death is applicable. The calculation of the amount of the award upon affirmance is a simple mathematical process, and under the circumstances we elect not to dismiss the appeal.” *A.O. Smith*, 109 Ill. 2d at 54-55.

Thus, in *A.O. Smith*, the parties stipulated to the facts and the supreme court relied on that stipulation in finding that the case before it amounted to nothing more than a simple mathematical calculation. The same situation is not present here. As explained above, upon remand, the Commission will be required to provide a factual and legal basis for causation beyond June 28, 2013, as well as an assessment of any additional benefits due claimant. For these reasons *A.O. Smith* is distinguishable. Prior to concluding, we note that our decision does not deprive the parties of the right to judicial review since once the Commission addresses the issues presented on remand, its decision will again become reviewable. *Stockton*, 69 Ill. 2d at 125-26; *Kendall County Public Defender's Office*, 304 Ill. App. 3d at 273.

¶ 14

#### IV. CONCLUSION

¶ 15 For the reasons set forth above, respondent's appeal is dismissed and the matter is remanded to the Commission for further proceedings in accordance with this decision.

¶ 16 Appeal Dismissed; Cause remanded to Commission with directions.