

2018 IL App (5th) 170042WC-U

No. 5-17-0042WC

Order filed: September 7, 2018

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

CERRO COPPER,)	Appeal from the
)	Circuit Court of
Appellant,)	St. Clair County.
)	
v.)	Nos. 15-MR-421,
)	15-MR-428
)	
THE ILLINOIS WORKERS' COMPENSATION)	Honorable
COMMISSION <i>et al.</i> (Eddie Andrews and)	Robert P. LeChien,
Agency for Community Transit, Appellees).)	Judge, presiding

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

ORDER

¶ 1 *Held:* Appellate court lacked jurisdiction to review cause where circuit court's order was not final.

¶ 2 The respondent, Cerro Copper (Cerro), appeals the judgment of the circuit court of St. Clair County, which confirmed, in part, the decision of the Illinois Workers'

Compensation Commission (Commission) to uphold the setting of the manifestation date and notice compliance against Cerro, but reversed the Commission's decision, which reversed the arbitrator's decision awarding permanent partial disability (PPD) benefits, where the Commission failed to increase the arbitrator's initial PPD award after finding that the claimant's carpal tunnel surgeries related to his employment with Cerro.

¶ 3

I. Background

¶ 4 On November 15, 2007, the claimant filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2008)), alleging a repetitive trauma injury against his previous employer, Cerro. The claimant initially alleged that his repetitive trauma injury to his bilateral hands and upper extremities occurred on August 3, 2007, as a result of working as a laborer for Cerro. On July 19, 2013, however, the claimant amended his application for adjustment of claim to reflect an accident date of August 29, 2007, alleging carpal tunnel injuries to both hands and wrists, and the man as a whole.

¶ 5 The arbitration hearing was held on September 29, 2014. The arbitrator found that the claimant had suffered bilateral carpal tunnel syndrome that arose out of his employment with Cerro; that the manifest date of the injury was January 7, 2008, not August 29, 2007, the date alleged by the claimant; that the claimant had provided timely notice; and that the claimant's condition of ill-being was causally related to his employment. The arbitrator awarded PPD and medical benefits, but limited the award of medical benefits because the claimant had exceeded the two-physician allowance under section 8(e) of the Act (820 ILCS 305/8(e) (West 2014)).

¶ 6 Cerro filed a petition for review with the Commission seeking to reverse the arbitrator's decision. On October 22, 2015, the Commission confirmed the arbitrator's decision against Cerro, finding that the claimant had suffered bilateral carpal tunnel syndrome arising out of and in the course of his employment with Cerro, and that the manifestation date of injury was January 7, 2008.

¶ 7 The claimant subsequently sought judicial review of the Commission's decision. Cerro argued that the Commission's findings were against the manifest weight of the evidence where it determined that the claimant had suffered bilateral carpal tunnel syndrome; that the manifestation date was January 7, 2008; and that the claimant had provided timely notice pursuant to section 6(c) of the Act (820 ILCS 305/6(c) (West 2014)) based on the January 7, 2008, manifestation date.

¶ 8 On January 3, 2017, the circuit court confirmed, in part, the Commission's decision to uphold the setting of the manifestation date and notice compliance against Cerro, but reversed the Commission's decision, which reversed the arbitrator's decision awarding PPD benefits. The circuit court determined that the Commission had failed to increase the arbitrator's initial PPD award after finding that the carpal tunnel surgeries were related to the claimant's employment with Cerro. Cerro filed a timely notice of appeal.

¶ 9 II. Analysis

¶ 10 Before addressing the issues raised in this appeal, we must address the question of our own jurisdiction to review this case. Although neither party raises a jurisdictional issue, we have a duty to consider our jurisdiction and to dismiss the appeal if jurisdiction

is lacking. *Wood Dale Electric v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 113394WC, ¶ 8. Although circuit courts are courts of general jurisdiction and enjoy a presumption of subject matter jurisdiction, that presumption does not apply in workers' compensation proceedings where the court exercises special statutory jurisdiction. *Hartlein v. Illinois Power Co.*, 151 Ill. 2d 142, 158 (1992). It is well settled that only final determinations of the Commission are reviewable. *Kendall County Public Defender's Office v. Industrial Comm'n*, 304 Ill. App. 3d 271, 273 (1999). 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.

¶ 11 Here, we conclude that this court lacks jurisdiction because the circuit court's order was not final and appealable. Because the circuit court reversed the Commission's decision, in part, a remand to the Commission should have occurred. Based on the court's failure to do so, this cause must be remanded back to the circuit court with directions to remand the matter to the Commission to reconsider the PPD award consistent with its decision. Thus, Cerro's appeal is dismissed for a lack of appellate jurisdiction.

¶ 12

III. Conclusion

¶ 13 For the foregoing reasons, this court lacks jurisdiction to entertain Cerro's appeal.

¶ 14 Appeal dismissed; cause remanded with directions.