

Order filed May 10, 2019

**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  
FIFTH DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

TANA TRICE,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	St. Clair County.
	)	
v.	)	No. 15-MR-451
	)	
THE ILLINOIS WORKERS' COMPENSATION COMMISSION <i>et al.</i>	)	Honorable
	)	Stephen P. McGlynn,
(Park Haven Care Center, Appellee).	)	Judge, presiding.

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

**ORDER**

¶ 1 *Held:* Consolidated appeals dismissed for lack of appellate jurisdiction where the claimant filed a premature notice of appeal from the first order of the circuit court, and the superseding order of the circuit court was not a final and appealable judgment.

¶ 2 These consolidated appeals arise from two successive orders issued by the circuit court of St. Clair County on judicial review of a decision of the Illinois Workers' Compensation Commission (Commission), which modified the decision of the arbitrator by reducing the benefits awarded to the claimant, Tana Trice, under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)). In case No. 5-17-0456WC, the claimant appeals from an order issued by the circuit court on October 23, 2017, which confirmed the decision of the Commission. In case No. 5-18-0252WC, both the claimant and the respondent, Park Haven Care Center, appeal from an amended order issued by the circuit court upon the claimant's motion to reconsider on March 28, 2018, which reversed the decision of the Commission, in part, and remanded the matter to the Commission for further determination consistent with the amended order. For the following reasons, we dismiss these consolidated appeals for lack of jurisdiction.

¶ 3 I. Background

¶ 4 On January 12, 2006, the claimant filed an application for adjustment of claim pursuant to the Act (820 ILCS 305/1 *et seq.* (West 2004)), seeking benefits for injuries she allegedly sustained to her "left leg, low back, right shoulder, neck and body as a whole" when she slipped and fell on a baked apple on August 22, 2005, while working for the respondent. The arbitrator subsequently dismissed the case for want of prosecution, but the case was reinstated on the claimant's motion.

¶ 5 On September 30, 2014, prior to the arbitration hearing, the parties submitted a form, titled "Illinois Workers' Compensation Commission Request for Hearing," setting forth the disputed and undisputed issues in the case. First, the claimant asserted, and the

respondent disputed, that her current condition of ill-being was causally connected to her work-related injury and that the respondent was liable for unpaid medical bills totaling \$175,234.89. Second, the claimant asserted that she was entitled to temporary total disability (TTD) benefits for the time periods of “8/23/05-9/18/05” and “1/8/06-9/30/14, representing 459-2/7 weeks.” The respondent disputed the alleged TTD time periods and claimed “8/23/05-9/19/05, 4/6/06-9/6/07,” and “1/7/06-4/1/06.” Other issues listed in dispute were the nature and extent of the injury, “causation, medical, [TTD],” and prospective medical care. The parties agreed, however, that the claimant’s earnings during the year preceding the injury were \$24,960, with an average weekly wage of \$480. The parties also agreed that the claimant was entitled to temporary partial disability (TPD) benefits for the period of “9/19/05-1/7/06.” In addition, the parties agreed that the respondent paid \$28,800 in TTD and \$2480 in TPD for which credit may be allowed, but that the respondent paid no medical bills through its group medical plan for which it may be credited.

¶ 6 On December 15, 2014, following a hearing, the arbitrator issued a decision in which he found that the claimant’s current condition of ill-being was causally related to the August 22, 2005, work accident; the respondent had not paid all of the claimant’s medical expenses, which were reasonable and necessary; the claimant was TTD from “8/23/05 through 9/19/05 and from 1/6/06 through 11/2/10,” pursuant to the evidence presented in the stipulation of the parties; and the August 22, 2005, work accident caused a 20% loss of use of the person as a whole. Based on these findings, the arbitrator awarded the claimant medical expenses in the amount of \$175,234.89, but ordered credit

to the respondent for the medical bills it had paid prior to the hearing. Respondent's Exhibit 5, which was the basis for the credit, demonstrated that the respondent had paid \$16,883.37 towards the claimant's medical expenses from August 22, 2005, through February 21, 2006. The arbitrator also awarded the claimant 255-5/7 weeks of TTD at \$320 per week, but ordered that the respondent receive a \$33,280 credit against the award for TTD benefits previously paid to the claimant. In addition, the arbitrator awarded the claimant 100 weeks of permanent partial disability (PPD) benefits at \$288 per week. Both parties sought review of the arbitrator's decision before the Commission.

¶ 7 On review, the Commission modified the arbitrator's decision, finding that the claimant had sustained a lumbar strain on August 22, 2005; the lumbar strain resulted in a permanent but not substantial aggravation of her underlying degenerative disc disease; she reached maximum medical improvement (MMI) for her work-related injury on January 27, 2006; the medical treatment incurred after January 27, 2006, was unrelated to her work-related injury; the majority of the claimant's current condition was the result of her underlying degenerative condition; and the August 22, 2005, work accident caused a 7.5% loss of use of the person as a whole. Based on these findings, the Commission vacated the award for medical expenses after January 27, 2006, and terminated TTD benefits after January 27, 2006, which reduced the award to 22-4/7 weeks at \$320 per week. The Commission also reduced the PPD award to 37-1/2 weeks at \$288 per week. In addition, the Commission awarded the respondent credit for all amounts paid, if any, to or on behalf of the claimant for the work-related injury.

¶ 8 The claimant sought judicial review of the Commission’s decision in the circuit court of St. Clair County. On October 23, 2017, the court entered an order confirming the decision of the Commission. On November 14, 2017, the claimant filed a motion to reconsider the court’s October 23, 2017, order. On November 16, 2017, while her motion to reconsider was pending before the court, the claimant filed a notice of appeal from the October 23, 2017, order. The claimant’s appeal was docketed as No. 5-17-0456WC.

¶ 9 On March 28, 2018, the circuit court granted the claimant’s motion to reconsider and entered an amended order, finding that the request for hearing form included an agreement that the respondent would be liable for TTD benefits and associated medical bills for a certain period of time. Thus, the court reversed the Commission’s decision with regard to payment of TTD benefits, TPD benefits, “and the Commission’s failure to award medical bills from the medical providers who treated [the claimant] during the agreed upon time frame.” The court remanded the matter to the Commission for further determination consistent with the court’s order.

¶ 10 On April 25, 2018, the claimant filed a notice of appeal from the March 28, 2018, order. The claimant’s second appeal was docketed as No. 5-18-0252WC. On April 26, 2018, the respondent filed a notice of cross-appeal of the March 28, 2018, order in No. 5-18-0252WC. This court subsequently allowed the claimant’s motion to consolidate appeal No. 5-17-0456WC with appeal No. 5-18-0252WC.

¶ 11 II. Analysis

¶ 12 As an initial matter, we note that the posture of this case raises questions as to whether this court has jurisdiction over these consolidated appeals. Although neither

party raises the issue, we have an independent obligation to consider our jurisdiction and to dismiss an appeal when jurisdiction is lacking. *A.M. Realty Western L.L.C. v. MSMC Realty, L.L.C.*, 2016 IL App (1st) 151087, ¶ 67. Because this presents a question of law, our review is *de novo*. *In re Marriage of Gutman*, 232 Ill. 2d 145, 150 (2008).

¶ 13 In her jurisdictional statement and notices of appeal, the claimant asserts that this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 (eff. Feb. 1, 1994) and 303 (eff. July 1, 2017). Under Illinois Supreme Court Rule 301, “[e]very final judgment of a circuit court in a civil case is appealable as of right. The appeal is initiated by filing a notice of appeal. No other step is jurisdictional.” Ill. S. Ct. R. 301 (eff. Feb. 1, 1994). Illinois Supreme Court Rule 303 sets forth the applicable requirements for notices of appeal in all civil cases, including workers’ compensation cases. Ill. S. Ct. R. 303 (eff. July 1, 2017); see also 820 ILCS 305/19(f)(2) (West 2016). With these principles in mind, we consider our jurisdiction over these consolidated appeals.

¶ 14 A. Appeal No. 5-17-0456WC

¶ 15 We begin by addressing case No. 5-17-0456WC, in which the claimant appeals from the circuit court’s October 23, 2017, order. Specifically, we consider whether we have jurisdiction to review the October 23, 2017, order where the claimant filed her notice of appeal while her motion to reconsider remained pending before the court, and the court subsequently issued an amended order upon the claimant’s motion.

¶ 16 Illinois Supreme Court Rule 303(a)(1) generally provides that a notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from unless a timely posttrial motion directed at the final judgment is

filed. Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017). If a timely posttrial motion has been filed, the time for filing a notice of appeal is within 30 days after the entry of the order disposing of the last pending postjudgment motion. Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017).

¶ 17 Here, the circuit court's October 23, 2017, order confirming the Commission's decision was a final judgment from which the claimant had 30 days to file a notice of appeal. However, the claimant filed a timely motion to reconsider on November 14, 2017. See 735 ILCS 5/2-1203(a) (West 2016) (postjudgment motion must be filed within 30 days after entry of the judgment in nonjury cases). On November 16, 2017, while her timely postjudgment motion was pending before the court, the claimant filed a notice of appeal. Because the motion to reconsider was pending, the claimant's notice of appeal in case No. 5-17-0456WC was premature.

¶ 18 Prior to the 2007 amendment of Illinois Supreme Court Rule 303(a)(2), a premature notice of appeal had no effect and was subject to dismissal by a reviewing court. *Marsh v. Evangelical Covenant Church of Hinsdale*, 138 Ill. 2d 458, 460 (1990). However, the current version of Illinois Supreme Court Rule 303(a)(2) provides that a premature notice of appeal "becomes effective when the order disposing of said motion or claim is entered." Ill. S. Ct. R. 303(a)(2) (eff. July 1, 2017). Illinois Supreme Court Rule 303(a)(2) further provides:

"A party intending to challenge an order disposing of any postjudgment motion or separate claim, or a judgment amended upon such motion, must file a notice of appeal, or an amended notice of appeal within 30 days of the entry of said order or

amended judgment, but where a postjudgment motion is denied, an appeal from the judgment is deemed to include an appeal from the denial of the postjudgment motion.” Ill. S. Ct. R. 303(a)(2) (eff. July 1, 2017).

In other words, a premature notice of appeal becomes effective when an order denying the postjudgment motion is entered, thus, it is unnecessary to file a new or amended notice of appeal. See Ill. S. Ct. R. 303(a)(2), Committee Comments (adopted Mar. 16, 2007); *Gibson v. Belvidere National Bank & Trust Co.*, 326 Ill. App. 3d 45, 49 (2001) (an order denying a postjudgment motion merely confirms the preceding final judgment). If, however, a postjudgment order grants new or different relief than the first judgment, a new or amended notice of appeal is necessary to preserve an appeal from said order. Ill. S. Ct. R. 303(a)(2), Committee Comments (adopted Mar. 16, 2007).

¶ 19 Here, the circuit court did not merely confirm the October 23, 2017, order by denying the claimant’s motion to reconsider in the March 28, 2018, order. The court, instead, issued an amended order granting different relief than the October 23, 2017, order. Accordingly, the claimant’s premature notice of appeal did not become “effective” upon entry of the March 28, 2018, order, and she was required to file a new or amended notice of appeal within 30 days of the entry of the amended order. Rather than filing an amended notice of appeal in case No. 5-17-0456WC, the claimant chose to file a new notice of appeal in case No. 5-18-0252WC, followed by a motion to consolidate. Because the claimant failed to file a proper notice of appeal in case No. 5-17-0456WC, we lack jurisdiction to decide the appeal. See *General Motors Corp. v. Pappas*, 242 Ill. 2d 163,



176 (2011) (“Unless there is a properly filed notice of appeal, the appellate court lacks jurisdiction over the matter and is obliged to dismiss the appeal.”).

¶ 20

B. Appeal No. 5-18-0252WC

¶ 21 We next address case No. 5-18-0252WC, in which the parties challenge the circuit court’s March 28, 2018, order setting aside the Commission’s decision, in part, and remanding the matter to the Commission. Specifically, we consider whether we have jurisdiction to review the circuit court’s March 28, 2018, order where the court remanded the matter to the Commission for further determination.

¶ 22 As stated, the jurisdiction of a reviewing court is limited to deciding appeals from final judgments unless a statute or supreme court rule provides an exception. Ill. S. Ct. R. 301 (eff. Feb. 1, 1994) (“Every *final* judgment of a circuit court in a civil case is appealable as of right.” (Emphasis added.)); see also *Trunek v. Industrial Comm’n*, 345 Ill. App. 3d 126, 127 (2003). In the context of workers’ compensation claims, a circuit court’s order reversing a decision of the Commission and remanding the matter for further proceedings involving disputed questions of law or fact is not final for purposes of appeal. *Stockton v. Industrial Comm’n*, 69 Ill. 2d 120, 124-25 (1977); *St. Elizabeth’s Hospital v. 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). However, if a circuit court’s instructions on remand require only that the Commission “act in accordance with the directions of the court and conduct proceedings on uncontroverted

incidental matters or \*\*\* make a mathematical calculation,” the circuit court’s order is final for purposes of appeal. *Williams*, 336 Ill. App. 3d at 516 (citing *A.O. Smith Corp. v. Industrial Comm’n*, 109 Ill. 2d 52, 54-55 (1985), and *Wilkey v. Illinois Racing Board*, 96 Ill. 2d 245, 249-50 (1983)).

¶ 23 In its March 28, 2018, order, the circuit court determined that the request for hearing form submitted by both parties included an agreement that the respondent would be liable for TTD benefits, TPD benefits, and associated medical bills for a specified period of time. Based on this determination, the court set aside the Commission’s decision “with regard to payment of [TTD] benefits and [TPD] benefits, and the Commission’s failure to award medical bills from the medical providers who treated [the claimant] during the agreed upon time frame” and remanded the matter to Commission “for a further determination” consistent with the court’s order. Although not expressly set forth in the amended order, it appears that the court confirmed the Commission’s decision in all other respects.

¶ 24 In its decision and opinion on review, the Commission vacated the award of medical expenses after January 27, 2006, based on its finding that any medical treatment after that date was unrelated to the claimant’s work accident, and reduced the award of TTD benefits to 22-4/7 weeks, based on its finding that the claimant reached MMI as of January 27, 2006. Neither the Commission nor the arbitrator awarded the claimant TPD benefits. The Commission also awarded the respondent credit for all amounts paid, if any, to or on behalf of the claimant as a result of the August 22, 2005, injury. It is unclear

from the record whether the Commission considered whether the request for hearing form included any stipulations, or agreements, in rendering its decision and opinion on review.

¶ 25 At first glance, the circuit court's order, here, appears to suggest that a remand to the Commission may only involve a mathematical calculation of the amount of TTD benefits, TPD benefits, and medical expenses for the agreed upon time period listed on the request for hearing form. After reviewing the record, however, we conclude that the Commission, upon remand, will be tasked with something more than a simple mathematical calculation. Notably, neither the form nor the court's order clearly set forth the exact time period on which the parties agreed. We acknowledge that the form clearly indicates that the parties agreed to an average weekly wage of \$480 and that the claimant was entitled to TPD benefits for the period of "9/19/05-1/7/06." With regard to TTD periods, however, the form shows the claimant alleged "8/23/05-9/18/05" and "1/8/06-9/30/14, representing 459-2/7 weeks," while the respondent disputed these periods and claimed "8/23/05-9/19/05, 4/6/06-9/6/07," and "1/7/06-4/1/06." Accordingly, the Commission, upon remand, must review the relevant facts and determine whether the first TTD period ends on September 18, 2005, or September 19, 2005, and whether the second TTD period begins on January 7, 2006, or January 8, 2006.

¶ 26 Additionally, although the form clearly indicates the parties disputed the respondent's liability for unpaid medical bills totaling \$175,234.89, the circuit court's order requires the Commission to award medical expenses that fall within the agreed upon time period for TTD and TPD benefits. As such, the Commission, after reviewing

the medical bills submitted at arbitration, must determine which medical bills fall within the relevant time period and make the appropriate award based on its determination.

¶ 27 Lastly, we note that the Commission previously awarded the respondent credit for all amounts it paid to the claimant relating to the August 22, 2005, work accident, including amounts paid for TTD benefits and medical expenses. We note that the arbitrator awarded the respondent a credit of \$33,280 for TTD and \$16,883.37 for medical expenses. Thus, after determining the exact time periods of TTD and TPD benefits in accordance with the circuit court's order, the Commission must reconsider the amounts previously credited to the respondent. See *Payetta v. Industrial Comm'n*, 339 Ill. App. 3d 718, 722 (2003) (“[T]he determination of whether to allow credit is within the discretion of the court entering the workers’ compensation award.”); see also *Williams v. Industrial Comm'n*, 336 Ill. App. 3d 513, 517 (2003) (where remand involves a matter committed to the Commission’s discretion involving a question of fact subject to dispute by the parties, the order is not final and the appeal must be dismissed for lack of jurisdiction).

¶ 28 Thus, in our view, the Commission will be tasked with something more than a simple mathematical calculation upon remand. Therefore, we conclude that the circuit court’s March 28, 2018, order is not final, and we lack jurisdiction to consider appeal No. 5-18-0252WC.

¶ 29 III. Conclusion

¶ 30 For the foregoing reasons, we dismiss both consolidated appeals for lack of jurisdiction.

¶ 31 No. 5-17-0456WC, Appeal dismissed.

¶ 32 No. 5-18-0252WC, Appeal dismissed and remanded to the Commission with directions.