

# ILLINOIS OFFICIAL REPORTS

## Appellate Court

*University of Illinois Hospital v. Illinois Workers' Compensation Comm'n,*  
2012 IL App (1st) 113130WC

Appellate Court Caption UNIVERSITY OF ILLINOIS HOSPITAL, Appellant and Cross-Appellee, v. ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (MARTHA ARAGON, Appellee and Cross-Appellant).

District & No. First District, Workers' Compensation Commission Division  
Docket Nos. 1-11-3130WC, 1-11-3182WC cons.

Filed December 21, 2012

Held In the consolidated appeals by claimant and her employer from a decision of the trial court affirming the award of benefits by the Workers' Compensation Commission for claimant's alleged injuries, the trial court's judgment was vacated and the cause was remanded to the Commission, since the trial court lacked subject matter jurisdiction due to the fact that the Commission's decision was not final in the absence of language that a majority of the three-member panel of commissioners approved the award of permanent disability benefits.  
*(Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.)*

Decision Under Review Appeal from the Circuit Court of Cook County, Nos. 10-L-051012, 10-L-051013; the Hon. Margaret Brennan, Judge, presiding.

Judgment Circuit court judgment vacated and cause remanded to Commission for further proceedings.

Counsel on Appeal Nyhan, Bambrick, Kinzie & Lowry, P.C., of Chicago (L. Elizabeth Coppoletti and William A. Lowry, of counsel), for appellant.

Corti, Aleksy & Castaneda, of Chicago (John J. Castaneda and Megan C. Kivisto, of counsel), for appellee.

Panel JUSTICE HOFFMAN delivered the judgment of the court, with opinion. Justices Hudson, Holdridge, Appleton and Stewart concurred in the judgment and opinion.

### OPINION

¶ 1 Both the claimant, Martha Aragon, and the University of Illinois Hospital (University Hospital) have appealed from an order of the circuit court of Cook County which confirmed a decision of Illinois Workers' Compensation Commission (Commission), awarding the claimant certain benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2008)), for injuries she allegedly received while in the employ of University Hospital. We consolidated the two appeals for review. For the reasons that follow, we vacate the judgment of the circuit court, and remand the cause to the Commission for entry of a final decision with regard to the claimant's request for permanent disability benefits.

¶ 2 The following factual recitation is taken from the record on appeal, including the evidence presented at the arbitration hearing conducted on September 2 and 23, 2008.

¶ 3 At the arbitration hearing, the claimant presented testimony and documentary evidence with regard to her 10-year employment as a building service worker with University Hospital and her treatment for carpal tunnel syndrome. She also presented expert testimony indicating that the development of her carpal tunnel syndrome and her current condition of ill-being were causally connected to her employment with University Hospital and that she was permanently and totally disabled under the odd-lot category.

¶ 4 University Hospital presented medical evidence and expert opinions indicating that the claimant's injury and current condition of ill-being were caused by a systemic disease, which was not related to her employment. In addition, University Hospital presented evidence that the claimant was not permanently and totally disabled and was capable of performing the necessary functions of a clerical-assistant, a position that had been offered to the claimant in December 2005, but which she had rejected.

¶ 5 Upon consideration of the evidence presented at the hearing, the arbitrator found that the claimant sustained a work-related injury, as manifested on October 21, 1999, which aggravated a preexisting condition, and that the current condition of ill-being in the claimant's wrists and hands was causally connected to the employment injury. The arbitrator determined that the claimant was entitled to temporary total disability (TTD) benefits for

179 4/7 weeks from February 14, 2000, through July 29, 2003. The arbitrator also found that the claimant sustained a permanent partial disability (PPD) to the extent of 25% loss of use of the right hand and 22.5% loss of use of the left hand. As a consequence, the arbitrator awarded the claimant PPD benefits of \$291.11 per week for a period of 73.625 weeks, pursuant to section 8(e) of the Act (820 ILCS 305/8(e) (West 2008)). The arbitrator also determined that University Hospital was liable for compensation that had accrued from July 30, 2003, through the date of the hearing and for \$4,912.67 in claimed medical expenses.

¶ 6 Both the claimant and University Hospital sought review of the arbitrator's decision before the Commission. On review, the Commission, with one commissioner dissenting and one commissioner concurring in part and dissenting in part, corrected and clarified certain portions of the arbitrator's decision, but affirmed and adopted the arbitrator's decision as to causation, TTD, and medical expenses. The Commission's decision also purported to award the claimant 90 1/7 weeks of PPD benefits, based, in part, on the determination that the claimant was not permanently and totally disabled under the odd-lot category and, therefore, was not entitled to permanent total disability (PTD) benefits. However, only one commissioner expressed the view that the claimant was entitled to PPD benefits and was not entitled to PTD benefits under the odd-lot theory. A second commissioner, who dissented in part, concluded that the claimant had proved that she was permanently and totally disabled under the odd-lot category and was entitled to PTD benefits. The third commissioner, who dissented from the entire decision, determined that the claimant had failed to prove that her injury and current condition of ill-being were causally related to her employment, thereby precluding the claimant's entitlement to any benefits, including a permanency award.

¶ 7 The claimant and University Hospital both sought review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision, and this consolidated appeal followed.

¶ 8 The parties did not raise the issue of the circuit court's jurisdiction in their original briefs. However, this court ordered supplemental briefing on the question, based on our obligation to consider the jurisdictional issue *sua sponte*. That obligation stems from the fundamental principle that, if the circuit court lacked subject matter jurisdiction, then its orders are void and of no effect. *Supreme Catering v. Illinois Workers' Compensation Comm'n*, 2012 IL App (1st) 111220WC, ¶ 7; *Rojas v. Illinois Workers' Compensation Comm'n*, 406 Ill. App. 3d 965, 970, 942 N.E.2d 668, 672 (2010). The failure of a party to object to the lack of subject matter jurisdiction cannot confer jurisdiction upon the court. *Supreme Catering*, 2012 IL App (1st) 111220WC, § 7; *Taylor v. Industrial Comm'n*, 221 Ill. App. 3d 701, 703, 583 N.E.2d 4, 6 (1991). Subject matter jurisdiction cannot be waived, stipulated to, or consented to by the parties. *Supreme Catering*, 2012 IL App (1st) 111220WC, ¶ 7; *Jones v. Industrial Comm'n*, 335 Ill. App. 3d 340, 343, 780 N.E.2d 697, 700 (2002).

¶ 9 Although Illinois courts are courts of general jurisdiction and are presumed to have subject matter jurisdiction, this presumption does not apply to workers' compensation proceedings. *Residential Carpentry, Inc. v. Kennedy*, 377 Ill. App. 3d 499, 502, 879 N.E.2d 439, 442 (2007); *Kavonius v. Industrial Comm'n*, 314 Ill. App. 3d 166, 169, 731 N.E.2d 1287, 1290 (2000). It is firmly established that “ '[o]nly final determinations of the Commission are appealable.' ” *Supreme Catering*, 2012 IL App (1st) 111220WC, ¶ 8

(quoting *Bechtel Group, Inc. v. Industrial Comm'n*, 305 Ill. App. 3d 769, 772, 713 N.E.2d 220, 221 (1999)). A judgment is final if it determines the litigation on the merits, and it is not final if the order leaves disputed matters pending and undecided. See *Supreme Catering*, 2012 IL App (1st) 111220WC, ¶ 8 (citing *Honda of Lisle v. Industrial Comm'n*, 269 Ill. App. 3d 412, 414, 646 N.E.2d 318, 320 (1995)).

¶ 10 Section 19(e) of the Workers' Compensation Act provides, in relevant part, that "a decision of the Commission shall be approved by a majority of a panel of 3 members of the Commission." 820 ILCS 305/19(e) (West 2008). In this case, the record affirmatively demonstrates that there was no approval by a majority of the three-member panel of commissioners with regard to the claimant's entitlement to a permanent disability award.

¶ 11 As set forth above, just one commissioner, Commissioner Dauphin, expressed the view that the claimant was entitled to PPD benefits and was not entitled to PTD benefits under the odd-lot theory. A second commissioner, Commissioner Mason, dissented in part and concluded that the claimant had proved that she was permanently and totally disabled under the odd-lot category and was entitled to PTD benefits. The third commissioner, Commissioner Lindsay, dissented from the entire decision and found that the claimant was not entitled to benefits under the Act because she had failed to prove that her injury and current condition of ill-being were causally related to her employment. Thus, the two commissioners who found that the claimant was entitled to receive benefits did not agree with regard to a permanency award. In light of the fact that a majority of the commissioners did not approve the PPD award, the decision issued by the Commission is not final because it does not dispose of the claimant's request for permanent disability benefits in accordance with the unambiguous language of section 19(e).

¶ 12 In the absence of a final determination by the Commission, the circuit court lacked the requisite subject-matter jurisdiction to entertain this matter and enter its order confirming the Commission's decision. *Bechtel Group, Inc.*, 305 Ill. App. 3d at 772, 713 N.E.2d at 221.

¶ 13 For the foregoing reasons, we vacate the judgment of the circuit court and remand the cause to the Commission for entry of a final decision with regard to the claimant's request for permanent disability benefits.

¶ 14 Circuit court judgment vacated and cause remanded to Commission for further proceedings.