

Nola Neher HILL, Employee v. TRAVENOL
LABORATORIES, INC. Employer

CA 87-367

748 S.W.2d 356

Court of Appeals of Arkansas
Division I
Opinion delivered May 11, 1988

1. **APPEAL & ERROR — WORKERS' COMPENSATION — TIME ALLOTTED FOR FILING AN APPEAL IS PRESCRIBED BY ARK. CODE ANN. § 11-9-711(b)(1) (1987).** — The time allotted for filing an appeal with the court of appeals from a decision by the Workers' Compensation Commission is prescribed by Ark. Code Ann. § 11-9-711(b)(1) (1987); an order or award of the Workers' Compensation Commission shall become final unless a party files notice with the Court of Appeals within thirty days from the date of receipt by that party of that order or award.
2. **WORKERS' COMPENSATION — APPEAL & ERROR — THE FILING OF A MOTION FOR RECONSIDERATION OR REHEARING DOES NOT EXTEND THE TIME.** — While the Commission has the authority to consider a

motion for rehearing which is filed within the thirty days allowed for an appeal, the filing of a motion for reconsideration or rehearing does not extend the time to file the notice of appeal.

Appeal from the Arkansas Workers' Compensation Commission; dismissed.

Frederick S. "Rick" Spencer, for appellant.

Harper, Young, Smith & Maurras, by: *Tom Harper, Jr.*, for appellee.

BETH GLADDEN COULSON, Judge. Appellant, Nola Neher Hill, raises four points for reversal in this appeal from a decision of the Arkansas Workers' Compensation Commission denying her claim. We find, however, that the appeal was not filed in a timely manner as required by Ark. Code Ann. § 11-9-711(b) (1987), and we therefore dismiss it.

On May 18, 1987, the Commission filed its opinion denying appellant's claim. Appellant filed a petition for reconsideration, which the Commission, declaring it to be "without merit," denied on July 1, 1987. On July 20, 1987, appellant filed a notice of appeal with the Commission. Although the document indicates that the appeal is from the decision of the Commission denying reconsideration on July 1, 1987, the substance of her appeal is in fact concerned with the Commission's opinion dated May 18, 1987.

[1, 2] The time allotted for filing an appeal with this court from a decision by the Commission is prescribed by Ark. Code Ann. § 11-9-711(b)(1) (1987):

A compensation order or award of the Workers' Compensation Commission shall become final unless a party to the dispute shall, within thirty (30) days from receipt by him of the order or award, file notice of appeal to the Court of Appeals, which is designated as the forum for judicial review of those orders and awards.

In *Morrison v. Tyson Foods, Inc.*, 11 Ark. App. 161, 668 S.W.2d 47 (1984), we emphasized the finality of a Commission order in the absence of an appeal filed within thirty days. We also noted that the Commission has the authority to consider a motion for rehearing which is filed within the thirty days allowed for an

appeal, but we stressed that “*the filing of a motion for reconsideration, or rehearing, does not extend the time to file the notice of appeal.*” (Emphasis added.)

The notice was not timely filed. The petition for reconsideration did not, as *Morrison v. Tyson Foods, Inc., supra*, establishes, extend the time allowed appellant for filing a notice of appeal.

Appeal dismissed.

CORBIN, C.J., and MAYFIELD, J., agree.
