

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-859

TOMMY R. KIMBLE

APPELLANT

V.

HINO MOTORS MFG. USA, INC.,
TOKIO MARINE MGMT., and DEATH
& PERMANENT TOTAL DISABILITY
FUND

APPELLEES

Opinion Delivered February 22, 2012

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION,
[NO. F801104]

REBRIEFING ORDERED

WAYMOND M. BROWN, Judge

Appellant Tommy Kimble appeals the Workers' Compensation Commission's decision which found that he failed to prove by a preponderance of the evidence that he suffered a compensable heart attack while working for appellee Hino Motors. Kimble argues on appeal that the Commission's decision is not supported by the evidence. We cannot reach the merits of Kimble's appeal because his brief and addendum are deficient.

Kimble's jurisdictional statement fails to comply with Rule 1-2(c) of the Rules of the Supreme Court, which requires the first paragraph of the statement to "concisely state all issues of law raised on appeal" in "terms and circumstances of the case but without unnecessary detail." The second paragraph "shall" state whether or not the appeal raises any "question(s) of legal significance for jurisdictional purposes." Here, Kimble's jurisdictional



statement is nothing more than a statement of the case. In addition, Kimble's argument fails to comply with Rule 4-2(a)(7), because it does not include a standard of review for the issue on appeal and it makes reference to testimony and materials without a reference to the page number in the abstract, record, and/or addendum at which such testimony and materials are found. There is also a violation of Rule 4-2(a)(8) in that Kimble's addendum does not include his notice of appeal from the Commission's opinion. Kimble has also failed to include necessary exhibits, such as his medical records and his time card, in his addendum. Further, page eight of the ALJ's decision is missing from the addendum, and items that are included in the addendum are not consecutively numbered.

We direct counsel to file a substituted brief that complies with our rules.¹ The substituted brief, abstract, and addendum shall be due fifteen days from the date of this opinion. After service of the substituted abstract, brief, and addendum, the appellee shall have the opportunity to revise or supplement its brief in the time prescribed by the court.

We remind counsel that the examples we have noted are not to be taken as an exhaustive list of deficiencies. Counsel should carefully review the rules to ensure that no other deficiencies exist. Failure to file a compliant brief within fifteen days could result in the Commission's decision being summarily affirmed for noncompliance with our rules.²

Rebriefing ordered.

HART and HOOFFMAN, JJ., agree.

Alvin L. Simes, P.A., for appellant.

Dover, Dixon Horne PLLC, by: *Joseph H. Purvis*, for appellees.

¹Ark. Sup. Ct. R. 4-2(b)(3) (2011).

²Ark. Sup. Ct. R. 4-2(c)(2).



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