

Cite as 2021 Ark. App. 288

ARKANSAS COURT OF APPEALS

DIVISION IV

No. CV-20-587

XPRESS BOATS, INC., AND
BRIDGEFIELD CASUALTY
INSURANCE COMPANY
APPELLANTS

V.

JOSE MORA
APPELLEE

Opinion Delivered June 2, 2021

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. G700972]

DISMISSED

RITA W. GRUBER, Judge

Xpress Boats and Bridgefield Casualty Insurance Company appeal from an order of the Arkansas Workers' Compensation Commission (the "Commission") denying their motion to dismiss Jose Mora's appeal to the Commission. We dismiss the appeal because the order is not a final, appealable order.

Mora contended that he sustained a compensable injury to his right foot on February 2, 2017. Appellants controverted the claim. Mora was represented at the August 2019 hearing by attorney Shannon Muse Carrol. On November 1, 2019, the administrative law judge denied the claim, finding that Mora failed to prove by a preponderance of the credible evidence that he sustained a compensable right-foot injury arising out of and in the course of his employment with Xpress Boats.

On November 22, 2019, Ms. Carrol wrote to Mora "confirming [their] conversation" of the same date that she would not be appealing the ALJ's November 1

decision. The letter provides that Mora had thirty days from November 1 within which to file an appeal. Ms. Carrol noted that Mora had brought a translator with him to their meeting and that Mora had indicated to Ms. Carrol that he understood he had thirty days from November 1 to file an appeal and that Ms. Carrol would not be representing him in an appeal.¹ On March 30, 2020, Mora filed a pro se handwritten appeal of the ALJ's decision with the Commission. He attached Ms. Carrol's letter to his request for an appeal.

On July 23, 2020, appellants filed an objection to the untimely appeal and requested that the Commission deny and dismiss it. The Commission entered an order on August 26, 2020, denying appellants' request for a dismissal of Mora's appeal and directed the clerk of the Commission to set a briefing schedule. Appellants filed an appeal from the Commission's order.

Arkansas Code Annotated section 11-9-711(b)(2) (Repl. 2012) provides that appeals from the Commission to this court shall be allowed as in other civil actions. For an order to be appealable, it must be final. *TEC & Com. Union Ins. v. Falkner*, 38 Ark. App. 13, 14, 827 S.W.2d 661, 662 (1992). Ordinarily, an order of the Commission is reviewable only at the point where it awards or denies compensation. *Am. Mut. Ins. Cos. v. Argonaut Ins. Co.*, 33 Ark. App. 82, 84, 801 S.W.2d 55, 56 (1991). Interlocutory decisions and decisions on incidental matters are not reviewable for lack of finality. *Falkner*, 38 Ark. App. at 14, 827 S.W.2d at 662.

Here, appellants have appealed from the Commission's denial of their motion to

¹The Commission granted Ms. Carrol's motion to withdraw from representing Mora on July 29, 2020.

dismiss. The order directs the Commission's clerk to set a briefing schedule. This order is not final. Accordingly, we have no jurisdiction, and we dismiss the appeal.

Dismissed.

BARRETT and WHITEAKER, JJ., agree.

Jason M. Ryburn, for appellants.

One brief only.