

The South Carolina Court of Appeals

Reginald Warner, Employee, Appellant,

v.

Gallman Personnel Services, Inc., Employer, and Zurich
American Insurance Company c/o Gallagher Bassett
Services, Inc., Carrier, Respondents.

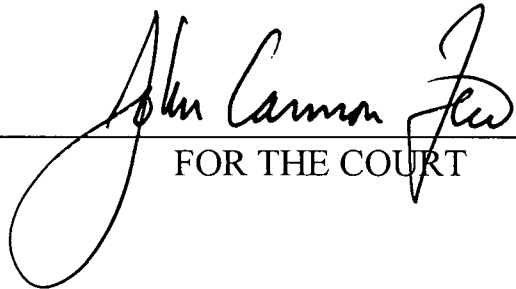
Appellate Case No. 2014-002279

ORDER

Appellant has appealed an order of the Appellate Panel of the South Carolina Workers' Compensation Commission vacating the single commissioner's order and remanding the matter to the single commissioner for a *de novo* hearing. Respondents have now filed a motion to dismiss the appeal, alleging the order is not immediately appealable. Appellant filed a return, contending the order vacating the single commissioner "and arbitrarily giv[ing] Respondents a 'second bite of the appeal' is and must be appealable as an essential part of due process." Appellant adds that the Administrative Procedures Act specifically contemplates an appeal from an order granting a trial *de novo*.

After careful consideration, this appeal is dismissed because the underlying order is not a final decision of the Workers' Compensation Commission. *See* S.C. Code Ann. § 1-23-380 (Supp. 2014) (limiting appeals of the commission to those from a "final decision"); *Price v. Peachtree Elec. Servs., Inc.*, 405 S.C. 455, 457, 748 S.E.2d 229, 230 (2013) ("An agency decision that does not decide the merits of a contested case is not a final agency decision subject to judicial review."); *Bone v. U.S. Food Serv.*, 404 S.C. 67, 73, 744 S.E.2d 552, 556 (2013) (same); *see also Charlotte-Mecklenburg Hosp. Auth. v. S.C. Dep't of Health & Envtl. Control*, 387 S.C. 265, 692 S.E.2d 894 (2010) (reiterating that appeals from administrative agencies may be sought only from final decisions, explaining the general appealability statute, section 14-3-330 of the South Carolina Code (1976 & Supp. 2014), does not apply to appeals from administrative agencies, and overruling this

court's opinion in *Canteen v. McLeod Regional Medical Center*, 384 S.C. 617, 682 S.E.2d 504 (Ct. App. 2009), to the extent it relied on section 14-3-330 to permit the appeal of interlocutory orders of the administrative law court or an administrative agency).


C.J.
FOR THE COURT

Columbia, South Carolina

cc:
Stephen Benjamin Samuels, Esquire
C. Barrett Burley, Esquire

FILED
4/23/15