

ESTATE OF JAMES COLE
(Appellee)

v.

GIRL SCOUTS OF MAINE
(Appellant)

and

MEMIC
(Appellant)

Argued: September 17, 2014

Decided: September 25, 2014

PANEL MEMBERS: Hearing Officers Greene, Collier, and Knopf
BY: Hearing Officer Knopf

[¶1] James Cole initially, and later, his surviving spouse, Carol P. Cole,¹ filed Petitions (1) for Award; (2) for Award—Fatal; and (3) for Payment of Medical and Related Services, related to an injury Mr. Cole incurred while performing work for the Girl Scouts of Maine. The parties agreed to reserve all issues for decision except the issue of whether Mr. Cole was an employee of the Girl Scouts under the Workers' Compensation Act. The hearing officer (*Stovall, HO*) issued a decree determining that Mr. Cole was an employee of the Girl Scouts at the relevant time. The Girl Scouts appeals that ruling. For the reasons that follow, we dismiss the appeal.

¹ Mr. Cole passed away during the pendency of this litigation.

[¶2] The Workers' Compensation Act and the Rules governing the Appellate Division provide for appeals from "hearing officer decisions." 39-A M.R.S.A. § 321-B (Supp. 2013); Me. W.C.B. Rule, ch. 13, § 3. The Rules further provide:

For purposes of this chapter, "decision" means a final decision issued by a hearing officer that fully disposes of the matters pending before the hearing officer. "Decision" does not include interlocutory or non-final decisions including, but not limited to, provisional orders.

See also E. Perry Iron & Metal Co., Inc. v. City of Portland, 2006 ME 52, ¶ 5, 896 A.2d 956.

[¶3] The hearing officer's ruling that Mr. Cole was an employee for purposes of the Workers' Compensation Act does not fully dispose of the pending matters before the hearing officer. None of the pending petitions has been fully resolved. Despite the Girl Scouts' contention at oral argument that this case fits within one of the judicially created exceptions to the final judgment rule, our Rules do not provide for such exceptions.

[¶4] After the hearing officer issues a final decision that fully decides and disposes of all claims, either party may appeal any earlier ruling that was properly opposed at the time.

The entry is:

The Girl Scouts' appeal is dismissed, and the case is remanded for resolution of the pending petitions.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Supp. 2013).

Attorney for Appellant:
Elizabeth Eddy Griffin, Esq.
MEMIC
P.O. Box 3606
Portland, Maine 04104

Attorneys for Appellee:
John M. McCallum, Esq.
Jeffrey B. Wilson, Esq.
ROBINSON KRIGER & McCALLUM
12 Portland Pier
Portland, Maine 04101-4713