

IN THE SUPREME COURT OF THE STATE OF NEVADA


THE CITY OF SPARKS,
Appellant,
vs.
THE SPARKS POLICE PROTECTIVE
ASSOCIATION, INC.,
Respondent.

No. 43878

FILED

FEB 24 2005

ORDER DISMISSING APPEAL

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

This is an appeal from a district court order that vacated an arbitration award and remanded the matter to the arbitrator for a “decision on the merits.” Second Judicial District Court, Washoe County; Steven R. Kosach, Judge.

When our preliminary review of the docketing statement and the documents submitted to this court pursuant to NRAP 3(e) revealed a potential jurisdictional defect, we ordered appellant to show cause why this appeal should not be dismissed for lack of jurisdiction. We noted in our show cause order that it appeared that the order designated in the notice of appeal was not substantively appealable.¹ This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.² NRS 38.247, in part, allows an appeal from an order “vacating an award without directing a rehearing.”³

Here, the district court vacated the arbitration award and remanded the matter to the arbitrator for a “decision on the merits.” The district court’s remand for a “decision on the merits” clearly qualifies

¹See NRAP 3A(b); NRS 38.247.

²Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

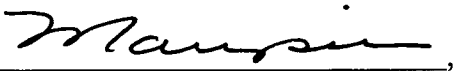
³NRS 38.247(1)(e).

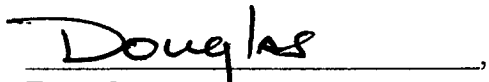
under NRS 38.247(1)(e) as “directing a rehearing.” Consequently, the district court’s order is not appealable under NRS 38.247(1)(e).

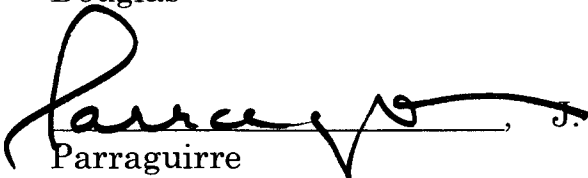
Appellant, in its response to our show cause order, alternatively argues that this appeal is proper under NRS 38.247(1)(c), which allows an appeal from “[a]n order . . . denying confirmation of an award.” This argument has been consistently rejected in other jurisdictions.⁴ Those jurisdictions have generally concluded that if an order that vacates an award and directs a rehearing were construed to be appealable as an order denying confirmation of an award, then the language about “directing a rehearing” would be superfluous.⁵ We agree.

Accordingly, we are without jurisdiction to consider this appeal, and we

ORDER this appeal DISMISSED.

 J.
Maupin

 J.
Douglas

 J.
Parraguirre

⁴See Kowler Associates v. Ross, 544 N.W.2d 800 (Minn. Ct. App. 1996); Crack Team v. American Arbitration Ass’n, 128 S.W.3d 580 (Mo. Ct. App. 2004); Nebraska Dept. of Health v. Struss, 623 N.W.2d 308 (Neb. 2001); Prudential Securities, Inc. v. Vondergoltz, 14 S.W.3d 329 (Tex. App. 2000).

⁵See e.g., Ross, 544 N.W.2d at 801-02.

cc: Hon. Steven R. Kosach, District Judge
Robert Eisenberg, Settlement Judge
Bischof & Cockerill
Michael E. Langton
Washoe District Court Clerk