IN THE SUPREME COURT OF THE STATE OF NEVADA

FLUOR ENTERPRISES, INC., A CALIFORNIA CORPORATION,
Appellant,
vs.
STURGEON ELECTRIC CO., INC., A MICHIGAN CORPORATION,
Respondent.

No. 37440

FILED
MAR 25 2002
JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from a district court order denying a motion to stay a mechanic's lien foreclosure cause of action pending arbitration. On January 31, 2002, this court ordered Fluor Enterprises, Inc., to show cause why its appeal should not be dismissed for lack of jurisdiction. This court noted that the district court's order denying Fluor's motion for a stay did not appear to be substantively appealable.

This court has jurisdiction to consider an appeal only when the appeal is authorized by statute or court rule.[1] Nevada Rule of Appellate Procedure 3A(b) does not list as an appealable determination any order denying a motion for a stay.

Fluor contends that its appeal from the order denying the motion for a stay is authorized by NRS 38.205(1)(a): "An appeal may be taken from . . . [a]n order denying an application to compel arbitration made under NRS 38.045." Fluor argues that its motion to stay Sturgeon

[1]See Kokkos v. Tsalikis, 91 Nev. 24, 530 P.2d 756 (1975).

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Electric Company, Inc.'s "Foreclosure of Mechanic's Lien" claim was actually a motion to compel arbitration.

NRS 38.045(1) provides the mechanism for compelling arbitration: "On application of a party showing an agreement [to arbitrate] and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration . . . ." But nowhere in Fluor's entire "Motion to Stay 5th Cause of Action" did Fluor request that Sturgeon be compelled to participate in arbitration. Indeed, two months before commencing litigation, Sturgeon had initiated arbitration proceedings with the American Arbitration Association. Further, Fluor seems to suggest in its motion that Sturgeon's "Foreclosure of Mechanic's Lien" claim was not even subject to arbitration because Aladdin was not a party to Fluor and Sturgeon's arbitration agreement. Thus, Fluor's contention that its "Motion to Stay 5th Cause of Action" was actually a motion to compel arbitration is without merit.

Nevada's Uniform Arbitration Act specifically prescribes the orders and decisions from which an appeal may be taken in the context of arbitration. An order denying a motion to stay district court proceedings pending arbitration is not among them. Appeal is reserved for orders denying applications to compel arbitration, orders granting applications to stay arbitration, orders confirming or denying confirmation of arbitration awards, orders modifying or correcting arbitration awards, orders vacating arbitration awards, and judgments entered on arbitration awards.[2] "[T]he fact that the Legislature saw fit to specify in one code section the different orders and judgment from which appeals may be taken clearly indicates

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[2]NRS 38.205(1).

. . . an intention to restrict the appeals in such proceeding to orders and judgment therein specified . . . ."[3]

We conclude that this court lacks jurisdiction over the district court's order denying Fluor's motion for a stay.[4] Accordingly, we

ORDER this appeal DISMISSED.

_____, J.
Shearing

_____, J.
Rose

_____, J.
Becker

cc: Hon. Michael A. Cherry, District Judge
Jerry J. Kaufman, Settlement Judge
Gibbs, Giden, Locher & Turner, LLP
Peel, Brimley, Spangler & Brown
Clark County Clerk

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[3]Clark County v. Empire Electric, Inc., 96 Nev. 18, 19-20, 604 P.2d 352, 353 (1980) (quotation omitted) (concluding that no appeal may be taken from an order compelling arbitration because such an order is not listed as appealable in the Uniform Arbitration Act).

[4]The Texas Court of Appeals has likewise concluded that an order denying a motion to stay trial court proceedings pending arbitration is not appealable. Batton v. Green, 801 S.W.2d 923 (Tex. App. 1990).