

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES F. KELLY,  
Appellant,  
vs.  
SAHARA HOTEL & CASINO,  
Respondent.

No. 38078

**FILED**

JAN 22 2004

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. R. [Signature]*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a proper person appeal from a district court order denying appellant's motion for reconsideration of an order that affirms in part and reverses in part and remands appellant's petition for judicial review of an appeals officer's decision in a workers' compensation case.

Our review of this appeal reveals jurisdictional defects. The right to appeal is statutory; where no statute or court rule provides for an appeal, no right to appeal exists.<sup>1</sup> No statute or court rule provides for an appeal from an order denying rehearing or reconsideration.<sup>2</sup>

Furthermore, even if we were to construe appellant's notice of appeal as from the underlying order in the petition for judicial review, the notice of appeal is untimely. Written notice of the order's entry was served on March 15, 2001. Appellant's notice of appeal was filed on June 20, 2001, well outside the thirty-day appeal period (plus three days for

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<sup>1</sup>See NRAP 3A(b); Taylor Constr. Co. v. Hilton Hotels, 100 Nev. 207, 678 P.2d 1152 (1984).

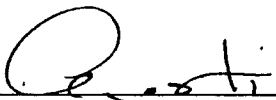
<sup>2</sup>See, e.g., Alvis v. State, Gaming Control Bd., 99 Nev. 184, 660 P.2d 980 (1983).

mailing) set forth in NRAP 4(a)(1) and NRAP 26(c). In addition, we note that the underlying order does not appear to be a final, appealable order.<sup>3</sup>

Accordingly, we conclude that we lack jurisdiction to consider this appeal, and we

ORDER this appeal dismissed.

  
\_\_\_\_\_, J.  
Becker

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Kathy A. Hardcastle, District Judge  
Moran & Associates  
James F. Kelly  
Clark County Clerk

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<sup>3</sup>An order that resolves less than all of the claims or the rights and liabilities of all the parties in an action is generally not appealable as a final judgment. See Lee v. GNLV Corp., 116 Nev. 424, 996 P.2d 416 (2000); Rae v. All American Life & Cas. Co., 95 Nev. 920, 605 P.d 196 (1979). Typically, an order of remand resolves neither all of the claims nor all of the rights and liabilities of any party. See, e.g., Ayala v. Caesars Palace, 119 Nev. \_\_\_, 71 P.3d 490 (2003); Bally's Grand Hotel v. Reeves, 112 Nev. 1487, 929 P.2d 936 (1996). The underlying order in this action remands certain issues back to an appeals officer for further proceedings, and thus does not constitute a final judgment in this case.