

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2002 CA 2703

REBECCA J. LOUT

VS.

BOOTSY'S DELI (SEDCO, INC.)

JUDGMENT RENDERED SEPTEMBER 26, 2003

WV
Jmm
ON APPEAL FROM THE OFFICE OF WORKERS' COMPENSATION
ADMINISTRATION, DISTRICT 6, NUMBER 01-03045
STATE OF LOUISIANA

HONORABLE ROBERT W. VARNADO, JR.,
WORKERS' COMPENSATION JUDGE

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LAPLACE, LA

COUNSEL FOR PLAINTIFF/APPELLANT
REBECCA J. LOUT

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COUNSEL FOR DEFENDANT/APPELLEE
BOOTSY'S DELI (SEDCO INC.)

BEFORE: WHIPPLE, KUHN, AND MCDONALD

JK KUHN, J CONCURS & ASSIGNS REASONS

MCDONALD, J.

The appellate record indicates that the appellant timely filed an appeal in this matter on October 16, 2002. The briefing schedule in conformity with Rule 2-12.7 provided that appellant's brief was due on January 21, 2003. Appellant filed a motion for extension of time to file her brief and was given until February 5, 2003, to do so. On that date, the appellant filed a second request for an extension of time to file her brief and was given until February 20, 2003, to do so. However, appellant failed to file her brief. On February 27, 2003, a letter was sent to appellant from the clerk of this court advising her that she had until March 29, 2003, to file her brief or her appeal would be dismissed.

Appellant suggests that she mailed her brief on March 28, 2003, but failed to include a copy of the judgment from the workers' compensation judge. Uniform Rules-Courts of Appeal 2-12.4 requires that the judgment "shall be appended to the brief of the complaining litigant on appeal." Upon learning of this, the judgment was sent. However, appellant does not dispute that the brief that included the attached judgment was filed three days late, or that an order of dismissal was issued on April 7, 2003.

Subsequent to this dismissal, plaintiff filed an application for rehearing and a motion to reinstate the appeal. The motion was granted by this court and the appeal was reinstated, for purposes of argument, on May 16, 2003. On May 30, 2003, defendant filed a motion to dismiss the appeal, contending that the matter had become final when appellant failed to file the brief and the order of dismissal issued. We agree.

Appellant has failed to meet any of the deadlines set by this court. The appeal is dismissed. Appellee's timely filed answer is dismissed as moot. Costs are assessed against the appellant.

APPEAL DISMISSED.

REBECCA J. LOUT

NUMBER 2002 CA 2703

VERSUS

FIRST CIRCUIT

BOOTSYS'S DELI (SEDCO, INC.)

COURT OF APPEAL

STATE OF LOUISIANA

BEFORE: WHIPPLE, KUHN AND MCDONALD, J.J.



Kuhn, Judge additionally concurring.

We do not reach the merits of this dispute because appellant did not timely file her appellate brief. However, if we were to address the merits, I would find no error in the ruling of the Office of Workers' Compensation.