

IN THE SUPREME COURT OF THE STATE OF DELAWARE

AMERICAN INTERNATIONAL	§
GROUP,	§
	§ No. 92, 2002
Employer/Appellee Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
EDITH VIRGINIA WESSELLS,	§ C.A. No. 01A-05-003
	§
Claimant/Appellant Below-	§
Appellee.	§

Submitted: March 21, 2002

Decided: March 28, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices

ORDER

This 28th day of March 2002, it appears to the Court that:

(1) On February 21, 2002, the Court received the appellant's notice of appeal from a) the Superior Court's January 2, 2002 order reversing the Industrial Accident Board's (the "Board's") denial of the claimant's petition for worker's compensation benefits and remanding the matter to the Board for

further proceedings and b) the Superior Court's February 5, 2002 order denying the appellant's motion for reargument.¹

(2) On February 25, 2002, the Clerk issued a notice pursuant to Supreme Court 29(b) directing the appellant to show cause why the appeal should not be dismissed as interlocutory. The appellant filed its response to the notice to show cause on March 7, 2002. The appellant argues that the Superior Court's January 2, 2002 order is not interlocutory because it remands the matter to the Board for purely ministerial functions. In her response, the appellee argues that the order is interlocutory because the Board will be required to make additional factual findings.

(3) The Court has considered the parties' submissions and concludes that the Board's function on remand is not purely ministerial. Consequently, the Superior Court's January 2, 2002 order is an interlocutory, and not a final, order.² The appellant has failed to comply with the procedural requirements

¹An amended notice of appeal was filed on March 4, 2002, which corrected the caption.

²*Showell Poultry v. Delmarva Poultry Corp.*, 146 A.2d 794, 795-96 (Del. 1958). See also *Miller v. Suburban Propane Gas Corp.*, 565 A.2d 913, 914 (Del. 1989).

of Supreme Court Rule 42(c) and (d) and, absent compliance, this Court must decline to exercise its appellate jurisdiction.³

NOW, THEREFORE, IT IS ORDERED that the appeal is hereby DISMISSED.

BY THE COURT:

s/Joseph T. Walsh
Justice

³*Stroud v. Milliken Enterprises, Inc.*, 552 A.2d 476, 481-82 (Del. 1989).