

NO. 22547

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Claim of
EMY TRINIDAD, Claimant-Appellee,

vs.

ALLSTATE INSURANCE COMPANY, Respondent-Appellant.

APPEAL FROM THE FIFTH CIRCUIT COURT
(S.P. NO. 96-0045)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

This case arises out of respondent-appellant Allstate Insurance Company's (Allstate) denial of no-fault insurance benefits to claimant-appellee Emy Trinidad for chiropractic treatment following a motor vehicle accident. Allstate appeals the April 27, 1999 order of the fifth circuit court, the Honorable George Masuoka, presiding, affirming in part and modifying in part the court-appointed arbitrator's decision of July 9, 1997 and award of attorney's fees entered on September 15, 1997. On appeal, Allstate contends, inter alia, that judicial review of the arbitration decision rendered pursuant to Hawaii Revised Statutes (HRS) § 431:10C-213 (1993 & Supp. 2000) is limited by the relevant provisions of HRS chapter 658 and that

the circuit court erred in reviewing the arbitrator's decision de novo under the Hawai'i Administrative Procedure Act (HAPA), see HRS § 91-1, et. seq. (1993). Allstate also contends that Trinidad's "appeal" of the arbitration award to the circuit court, pursuant to HRS § 431-10:C-213(e) (1993) was untimely.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that, because Trinidad did not request an administrative hearing, pursuant to HRS § 431:10C-212, HRS chapter 91 is inapplicable and that the circuit court, therefore, erred in concluding that the arbitrator's conclusions of law are reviewable pursuant to HRS § 91-14(g) (4).

Moreover, we note that the record reveals that, on January 26, 1998, pursuant to a motion brought by Trinidad and joined in by Allstate, the Honorable Clifford Nakea, presiding, confirmed the arbitrator's decision of July 9, 1997 and award of attorney's fees of September 15, 1997. Because the order confirming the award constituted entry of final judgment in the circuit court, see HRS § 658-12 (1993); Oppenheimer v. AIG Hawai'i Ins. Co., 77 Hawai'i 88, 91, 881 P.2d 1234, 1237 (1994), we hold that the circuit court lacked jurisdiction to address Trinidad's February 5, 1998 "notice of appeal" to the circuit court. Accordingly,

IT IS HEREBY ORDERED that the circuit court's April 27, 1999 order modifying the arbitration decision and its May 12, 1999 "judgment on appeal" are vacated, and the case is remanded for entry of an order dismissing Trinidad's February 5, 1998 appeal to the circuit court for lack of jurisdiction.

DATED: Honolulu, Hawai'i, July 30, 2001.

On the briefs:

J. Patrick Gallagher,
Joelle Segawa Kane, and
Lynn B. K. Costales (of
Gallagher & Associates),
for respondent-appellant

Joseph N. Kobayashi,
for claimant-appellee