



IN THE COURT OF APPEALS OF IOWA CLERK SUPREME COURT

MASSEY-FERGUSON, INC., and)
SENTRY INSURANCE)

1-86
2-65474

Petitioners-Appellants,

vs.)

Filed June 30, 1981

NORMA ALI and IOWA INDUSTRIAL)
COMMISSIONER,)

Respondents-Appellees.

Appeal from Polk District Court. Van Wifvat, Judge.

Employer and insurance carrier appeal from dismissal of their petition for judicial review of agency action. AFFIRMED.

Harry W. Dahl, of Harry W. Dahl, P.C., Des Moines, Ia., for petitioners-appellants.

Fred D. Huebner, of Hoskins & Huebner, Des Moines, Ia., for respondents-appellees.

Heard by Oxberger, C. J., and Donielson, Snell, Carter and Johnson, JJ.

PER CURIAM

Petitioners, Massey-Ferguson, Inc., and Sentry Insurance, appeal from district court's dismissal of their petition for judicial review of an agency action in a worker's compensation claim. We affirm.

Norma Ali, claimant, filed a claim for compensation for injuries which she sustained in 1977. After hearing before a deputy industrial commission, claimant moved to reopen the record in order to amend the date of injury in her petition to conform to the proof, to which motion petitioners resisted. The deputy granted the motion. Petitioners moved for rehearing by the deputy. The deputy affirmed his ruling granting the motion to amend. Petitioners filed an appeal to the industrial commissioner of the rehearing order. No decision had been filed by the deputy (or has yet been filed) on the merits of Ali's claim. The Industrial Commissioner filed an order dismissing petitioner's appeal on the grounds the order appealed from was interlocutory and that no appeal is proper until a final judgment is determined. Petitioners sought judicial review of the Industrial Commissioner's order pursuant to sections 86.26 and 17A.19, The Code 1979. The district court dismissed the petition on the grounds that no final action by the agency had occurred and administrative remedies had not been exhausted. Petitioners appeal that dismissal and seek remand to Industrial Commissioner to hear and determine the appeal concerning the deputy's ruling. Our review is pursuant to chapter 17A, The Code 1979.

Judicial review at the district court level under the provisions of chapter 17A is predicated on the fact the agency action is a final determination. The petitioners postulate the supreme court's order on September 29, 1980 is determinative of the finality of the agency action. This assertion is erroneous. The district court's dismissal is a final judgment, but is not conclusive of the finality of the agency actions. We do not find the agency's action to be final; that is, disposing of the entire matter.

Intermediate agency actions may be judicially reviewed if all administrative remedies have been exhausted and review of the final agency action would not provide an adequate remedy. § 17A.19(1). Petitioners, however, have not shown any harm or prejudice by not reviewing this issue prior to final determination of the entire matter.

Petitioners essentially allege the district court erred in failing to find the

Industrial Commissioner had violated section 86.24, The Code 1979, by refusing to review the deputy's ruling on the motion to amend. That question is not before this court. We are only to determine if the district court's dismissal was in error. As we have found no final agency action, nor conditions required to review an intermediate action pursuant to section § 17A.19, we affirm the district court's dismissal.

AFFIRMED.