

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

MELVIN EUCEDA,

Appellant,

v.

CASE NO. 1D10-0926

SOUTHEAST PERSONNEL
LEASING, INC. and PACKARD
CLAIMS ADMINISTRATION,

Appellees.

Opinion filed April 27, 2010.

An appeal from an order of the Judge of Compensation Claims.
Mary A. D'Ambrosio, Judge.

Date of Accident: June 16, 2009.

David C. Wiitala of Wiitala & Contole, P.A., North Palm Beach, for Appellant.

No appearance for Appellees.

PER CURIAM.

Upon review of Appellant/Claimant's response to this Court's show cause order entered March 2, 2010, we dismiss this appeal because the order on appeal, which dismisses Claimant's petitions for benefits without prejudice and notes the statutory limitations period to amend the petition has not yet run, is a non-final,

non-appealable order. See Mendez v. Shoma Dev. Corp., 899 So. 2d 510 (Fla. 1st DCA 2005) (“Because the order being appealed herein dismisses the petition for benefits without prejudice and contemplates the refiling of the petition . . . , we dismiss this appeal as being taken from a nonfinal, nonappealable order.”); Croes v. Univ. Cmty. Hosp., 886 So. 2d 1040, 1041 n.2 (Fla. 1st DCA 2004) (“We note that as an alternative to refiling her claim, appellant could have requested the entry of a final order of dismissal with prejudice, which could then be appealed.”). Martinez v. Collier County School Board, 804 So. 2d 559 (Fla. 1st DCA 2002), is distinguishable because, there, it was “uncontested that Appellant’s claim would be time-barred if refiled.” See Martinez, 804 So. 2d at 560.

DISMISSED.

KAHN, DAVIS, and THOMAS, JJ., CONCUR.