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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA26-166

Filed 7 October 2026

Office of Administrative Hearings, No. 25OSP02347

CRYSTAL RHOADES, petitioner-appellant,

v.

ALLIANCE HEALTH and ROB ROBINSON, respondents-appellees.

Appeal by petitioner from order entered 11 September 2025 by Administrative Law Judge Michael C. Byrne in the Office of Administrative Hearings. Heard in the Court of Appeals 15 September 2026.

Ogletree, Deakins, Nash, Smoak & Stewart, P.C., by Paul S. Holscher and Vanessa N. Garrido, for respondent-appellee.

Crystal L. Rhoades petitioner-appellant, pro se.

FREEMAN, Judge.

Petitioner appeals from an order of the Office of Administrative Hearings (OAH) granting defendants' 12(b)(1) motion to dismiss for lack of subject matter jurisdiction. On appeal, petitioner argues that the Administrative Law Judge (ALJ) erred by granting defendants' motion to dismiss. After careful review, we dismiss plaintiff's appeal as interlocutory.

I. Factual and Procedural Background

On 10 September 2024, Crystal Rhoades (petitioner) applied for a Data Operations Engineer position at Alliance Health. On 8 October 2024, petitioner received an email informing her that she had not been selected for the position.

On 23 April 2025, petitioner emailed a grievance to Alliance Health pursuant to Alliance Health’s Employee Grievance Procedure. The Employee Grievance Procedure states as follows:

The Complainant (applicant, employee or former employee) must begin the internal grievance process by submitting a written grievance to Human Resources (HR) using the Alliance grievance form within fifteen (15) calendar days after the date of receipt of the alleged event or action that is the basis of the grievance. . . . If an employee does not appeal the adverse action through the internal grievance process within fifteen (15) calendar days, then the employee shall have no right to file a contested case with OAH-HD.

Petitioner’s grievance asserted that the “date of occurrence” was 22 April 2025, but it did not identify what adverse action occurred on that date. The Alliance Health Employee Relations Manager met with petitioner twice and emailed petitioner inquiring about the 22 April 2025 event that led petitioner to file the grievance. Petitioner could not identify within fifteen days of the grievance the adverse action that had occurred. After confirming petitioner’s grievance was untimely, Alliance Health administratively closed petitioner’s grievance.

On 25 June 2025, petitioner filed a petition with the OAH against Alliance

Health and Rob Robinson (collectively respondents), alleging failure to receive priority consideration and discrimination. On 31 July 2025, respondents filed a motion to dismiss the petition under Rule 12(b)(6) and 12(b)(1). On 11 September 2025, the ALJ granted respondents’ motion to dismiss without prejudice for lack of subject matter jurisdiction. Petitioner served her notice of appeal that same day.

II. Jurisdiction

Respondents argue that this Court does not have jurisdiction over petitioner’s appeal, contending the appeal is interlocutory. Thus, as an initial matter, we consider whether plaintiff’s appeal is properly before us.

“A judgment is either interlocutory or the final determination of the rights of the parties.” N.C.G.S. § 1A-1, Rule 54(a) (2025). This Court has jurisdiction to review “any final order or decision of . . . the Office of Administrative Hearings under G.S. 126-34.02.” N.C.G.S. § 7A-29(a) (2025). A final decision is “one which disposes of the cause as to all the parties, leaving nothing to be judicially determined between them in the trial court.” *Ayala v. Perry*, 298 N.C. App. 134, 137 (2025) (quoting *Duval v. OM Hosp., LLC*, 186 N.C. App. 390, 392–93 (2007)). Conversely, “interlocutory orders are not immediately appealable.” *Jackson v. Home Depot, U.S.A., Inc.*, 276 N.C. App. 349, 354 (2021) (quoting *Hager v. Smithfield E. Health Holdings, LLC*, 264 N.C. App. 350, 354 (2019)). “An interlocutory order is one made during the pendency of an action, which does not dispose of the case, but leaves it for further action by the trial court in order to settle and determine the entire controversy.” *Veazey v. City of*

Durham, 231 N.C. 357, 362 (1950).

This Court has held, “Unless an exception applies, an order of dismissal without prejudice is interlocutory.” *Harbin Yinhai Tech. v. Greentree Fin. Group, Inc.*, 196 N.C. App. 615, 620 (2009). We reiterated this same proposition in recent unpublished opinions. *See Pine Hall Brick Co., Inc. v. N.C. Dep’t of Lab.*, No. COA25-676 (N.C. App. Sept. 16, 2026) (unpublished); *In re A.S.*, No. COA25-879, 2026 N.C. App. LEXIS 502, *6 (N.C. App. May 21, 2026) (unpublished); *Jeffries v. Miller*, No. COA14-263, 2014 N.C. App. LEXIS 1055, *5 (N.C. App. Sept. 10, 2014) (unpublished).

Here, plaintiff seeks appellate review over the trial court’s order granting defendants’ motion to dismiss *without prejudice*. Because we are bound by this Court’s precedent, we conclude that plaintiff’s appeal is interlocutory. *See In re Civil Penalty*, 324 N.C. 373, 384 (1989).

We may review an interlocutory appeal “if delaying the appeal would prejudice a ‘substantial right.’” *Liggett Grp., Inc. v. Sunas*, 113 N.C. App. 19, 23 (1993). “To confer appellate jurisdiction in this circumstance, the appellant must include in its opening brief, in the statement of the grounds for appellate review, ‘sufficient facts and argument to support appellate review on the ground that the challenged order affects a substantial right.’” *Denney v. Wardson Constr., Inc.*, 264 N.C. App. 15, 17 (2019) (quoting *Larsen v. Black Diamond French Truffles, Inc.*, 241 N.C. App. 74, 77 (2015)).

Here, plaintiff’s opening brief neither acknowledges the interlocutory nature

of this appeal nor explains how the trial court's order of dismissal affects a substantial right. Plaintiff's statement of the grounds for appellate review merely states, "This Court has jurisdiction pursuant to [N.C.G.S.] §§ 7A-29 and 150B-43 to review the Final Decision and Order of Dismissal . . . entered by the Administrative Law Judge on September 11, 2025. Petitioner filed a timely notice of appeal." Therefore, plaintiff failed to establish that this Court has jurisdiction to hear plaintiff's appeal. *See Ayala*, 298 N.C. App. at 139 ("[I]t remains the appellant's burden to raise and sufficiently brief the threshold question of jurisdiction.").

III. Conclusion

Because plaintiff's appeal is interlocutory, and plaintiff has not shown that plaintiff's appeal affects a substantial right, we dismiss plaintiff's appeal.

DISMISSED.

Judges ZACHARY and FLOOD concur.

Report per Rule 30(e).