

*An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.*

NO. COA02-1385

NORTH CAROLINA COURT OF APPEALS

Filed: 15 July 2003

TIMOTHY GREER,  
Employee,  
Plaintiff,

v.

North Carolina Industrial Commission  
I.C. File No. 761124

STANFORD FURNITURE  
CORPORATION,  
Employer,

SELF-INSURED (KEY RISK  
MANAGEMENT SERVICES),  
Servicing Agent,  
Defendant.

Appeal by defendant from opinion and award filed 26 August 2002 by the North Carolina Industrial Commission. Heard in the Court of Appeals 12 June 2003.

*Randy D. Duncan for plaintiff-appellee.*

*Law Offices of Gene Thomas Leicht, by Gene Thomas Leicht, for defendant-appellant.*

BRYANT, Judge.

Stanford Furniture Corporation (defendant) appeals from an opinion and award of the Full Commission of the North Carolina Industrial Commission (the Commission) filed 26 August 2002 awarding compensation to Timothy Greer (plaintiff).

A review of the record on appeal and defendant's brief to this Court reveals several violations of the Rules of Appellate Procedure. Rule 18 of the Rules of Appellate Procedure

governs the procedures for taking appeals from administrative agencies. *See* N.C.R. App. P. 18. Among other things, it requires that a notice of appeal be filed with the Commission stating to which court the appeal is being taken. *See* N.C.R. App. P. 18(b)(2); *see also* N.C.R. App. P. 3 (notice of appeal in civil cases required to be filed with the clerk of superior court and states to which court appeal is being taken). No filing date appears on defendant's notice of appeal, nor does it state the court to which appeal is being taken. Because the rules governing notice of appeal are jurisdictional, it appears this Court is without jurisdiction to entertain defendant's appeal as notice of appeal was not properly filed. *See Goins v. Sanford Furniture Co.*, 105 N.C. App. 244, 245, 412 S.E.2d 172, 173 (1992) (dismissing appeal based on lack of jurisdiction where record did not show that appeal was timely filed); *Fisher v. E.I. Du Pont de Nemours*, 54 N.C. App. 176, 176-77, 282 S.E.2d 543, 543 (1981). Even if defendant's notice of appeal had been properly filed with the Commission, defendant is still in violation of the requirements of Appellate Rule 9(b)(3) that "every pleading, motion, affidavit, or other paper included in the record on appeal" show the date on which it was filed. N.C.R. App. P. 9(b)(3).

Furthermore, defendant's brief to this Court is in violation of Appellate Rule 28(b)(6), requiring that immediately following each question presented "shall be a reference to the assignments of error pertinent to the question, identified by their numbers and by the pages at which they appear in the printed record on appeal." N.C.R. App. P. 28(b)(6). Assignments of error not set out in the brief are deemed abandoned, and the appeal is subject to dismissal. *Id.*; *see also Hines v. Arnold*, 103 N.C. App. 31, 37-38, 404 S.E.2d 179, 183 (1991) (portion of appeal dismissed for failure to reference assignment of error); *State v. Shelton*, 53 N.C. App. 632, 635, 281 S.E.2d 684, 688 (1981) (appeal subject to dismissal where appellant failed to reference assignments of error in brief).

Defendant presents only one argument on appeal and makes no reference to any assignment of error. Thus, defendant has failed to properly preserve any assignment of error for appellate review, and the record on appeal fails to establish the jurisdiction of this Court or is, alternatively, in violation of Rule 9 of the Rules of Appellate Procedure. Accordingly, this appeal must be dismissed. *See* N.C.R. App. P. 34(a)(3), -(b)(1). Nevertheless, after carefully examining the sole issue raised by defendant and argued by the parties in their briefs to this Court, we conclude this appeal is without merit.

Appeal dismissed.

Judges MCGEE and GEER concur.

Report per Rule 30(e).