



J. A26009/04

¶ 3 Rule of Appellate Procedure 311(b) governs appeal from orders sustaining venue. This Rule provides that an appeal from an order denying the transfer of venue, as an interlocutory order, is appealable as of right if “(1) the plaintiff, petitioner or other party benefiting from the order files of record within ten days after the entry of the order an election that the order shall be deemed final; or (2) the court states in the order that a substantial issue of venue or jurisdiction is presented.” Pa.R.A.P. 311(b).

¶ 4 In this instance, the court made no such statement in its order, and so the first sub-section governs our inquiry. Its language requires that the party benefiting from the order elect to have the order deemed final. The emphasis on the benefiting party is vital. The very premise of the Rule is to give the benefiting party the option to have the issue of venue adjudicated in an expedited manner, for even if the benefiting party does not elect to have the order deemed final, the challenging party may still raise venue in an appeal from a determination on the merits. Pa.R.A.P. 311(g)(2).

¶ 5 Mother was the party who benefited from the order in question, and she did not file an election to have the order deemed final within ten days of its entry. We are therefore without jurisdiction to hear this appeal.

¶ 6 Appeal quashed.