

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
WCC FILE NO. 1210601

David L. Alford
Employee/Claimant
Appellant

v.

DD&B Steel Erectors
Employer.

And

Bridgefield Casualty Insurance Company
Carrier,
Defendants,
Respondents.

Appellate Panel Review held in Columbia, South Carolina, on October 15, 2013 per notices timely and properly served upon all parties of interest.

Appellate Panel Decision and Order filed December 10, 2013

APPEARANCES:

Appellant David L. Alford, Claimant, of Columbia, South Carolina appeared Pro Se .

Defendants/Respondents represented by John Gabriel Coggiola, Esquire of Willson Jones Carter & Baxley, P.A. in Columbia, South Carolina.

STATEMENT OF THE CASE

The parties were heard by Commissioner Andrea C. Roche, on April 30, 2013, in Lexington, South Carolina. On July 16, 2013, Commissioner Roche issued an Order from which the Claimant appealed.

The Hearing Commissioner's Decision and Order set for the following Findings of Fact:

1. That Employee, Employer, and Carrier are subject to and bound by the terms and provisions of the South Carolina Workers' Compensation Act, as amended, with David L. Alford as Employee-Claimant and DD&B Steel Erectors as Employer and Bridgefield Casualty Insurance Company as Carrier, Defendants.

2. That Claimant was an employee of the above-named Employer on and prior to August 13, 2012, on which date he did sustain an admitted injury to the neck/back arising out of and in the course of his employment, and proper notice was given to Employer. This was an accepted claim; however, Defendants denied the extent of injuries as alleged by Claimant.

3. That Claimant has received appropriate medical benefits and is presently receiving temporary total compensation.

4. That the average weekly wage of Claimant at the time of the above-described accident was \$640.00, making a compensation rate of \$426.69 applicable in this matter.

5. That Claimant reached maximum medical improvement on November 30, 2012 for the injuries resulting from the August 13, 2012 accident and that there is no evidence in the record that any additional medical treatment would tend to lessen the period of Claimant's disability.

6. That based on the medical evidence, testimony, and my observation of the Claimant, that Claimant is malingering.

7. I find that Claimant is not entitled to any further benefits. Defendants were entitled to stop payment of temporary total compensation, and Defendants are entitled to a credit for the

payment of temporary total compensation since November 30, 2012.

8. I find that Claimant has sustained no permanent partial disability to any of the alleged body parts as a result of the accidental injury on August 13, 2012.

9. I find that Claimant has failed to prove that he is entitled to any further medical benefits, any award for serious disfigurement or any other compensable element under the law, other than the award for disability as ordered herein.

10. I find that this case needs to be referred to the Attorney General's Office for further investigation.

In addition to the above stated Findings of Fact, the Hearing Commissioner's Decision and Order also set forth the following Conclusions of Law:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.

2. Under § 42-1-160, Claimant did sustain an injury to his neck/back by accident arising out of and in the course and scope of his employment on August 13, 2012.

3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from August 14, 2012 until November 30, 2012, the date on which Claimant reached maximum medical improvement.

4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until November 30, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability.

5. Under §§ 42-9-10 - 42-9-30, Claimant has sustained no permanent partial disability to the neck/back.

6. Defendants are entitled to credit for all temporary benefits paid after the date of

MMI, November 30, 2012, pursuant to *Curriel v. Environmental Management Services*, 655 S.E.2nd 482 (S.C. 2007).

7. Pursuant to S.C. Code Ann. §38-55-510 *et seq.*, the case is to be referred to the Attorney General's Office for further investigation.

Within the statutory period, Claimant, proceeding Pro Se, filed Form 30 Request for Commission Review on the case. Claimant did not present his grounds for appeal in the form of questions presented, but instead submitted the following written statement:

I (Nicole Rankin) is writing this letter for Mr. David Alford because of his condition. He stated to me that since his head injury he has been having problems with his vision, head, and also numbness on his right side, right and left knee. How do anyone expect for him to be allright when he fell 10-11 feet on his head. He needs more treatment because he is not himself because of his head trauma. All these symptoms that he is having came from his accident. Dr. Pelion is the insurance carrier doctor so he don't expect for Dr. Pelion to say anything good in his behalf. But I know he is disable, dysfunctional since that accident. He never felt like this before, he is luck to be alive. And he ask you to help him get the proper treatment that is necessary for him. He is still having difficulties walking, bending, and standing for long period of time. For he is the victim here that needs more treatment from a brain, back, and vision specialist. To whom it may concern please take this letter into consideration that he needs further treatment. He also would like for his workers' comp to continue on so he can support his family. (Signed by Claimant, David Alford, 07/29/13)

Copies of the above assignments of error were furnished to all parties prior to the oral arguments presented before the Appellate Panel on October 15, 2013.

Pursuant to S.C. Code Ann. § 42-17-50 (1985), the Appellate Panel reviewed the Award and weighed all the evidence in the record as presented at the initial hearing. The Panel also considered all issues raised in the briefs of Appellant and Respondents. The Panel makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. We find that Employee, Employer, and Carrier are subject to and bound by terms and provisions of the South Carolina Workers' Compensation Commission Act, as amended, with David L. Alford as Employee-Claimant and DD&B Steel Erectors as Employer and Bridgetfield Casualty Insurance Company as Carrier, Defendants.
2. We find that Claimant was an Employee of the above named-Employer on and prior to August 13, 2012, on which date he did sustain an admitted injury to his neck/back, arising out of and in the course of his employment, and proper notice was give to Employer. This was an accepted claim; however, Defendants denied the extent of injuries as alleged by the Claimant.
3. We find that Claimant has received appropriate medical benefits and is presently receiving temporary total compensation.
4. We find that the average weekly wage of Claimant at the time of the above-described accident was \$640.00, making a compensation rate of \$426.69 applicable in this matter.
5. We find that Claimant reached maximum medical improvement on November 30, 2012 for the injuries resulting from the August 13, 2012 accident and that there is no evidence in the record that any additional medical treatment would tend to lessen the period of Claimant's disability.
6. We find that based on the medical evidence, testimony, and observation of the Claimant, that Claimant is malingering.
7. We find that Claimant is not entitled to any further benefits. Defendants were entitled to stop payment of temporary total compensation, and Defendants are entitled to a credit for the payment of temporary total compensation since November 30, 2012.
8. We find that Claimant has sustained no permanent partial disability to any of the alleged body parts as a result of the accidental injury on August 13, 2012.

9. We find that Claimant has failed to prove that he is entitled to any further medical benefits, any award for serious disfigurement or any other compensable element under the law, other than the award for disability as ordered herein.

10. We find that this case needs to be referred to the Attorney General's Office for further investigation.

CONCLUSIONS OF LAW

In view of those Findings of Fact, and as provided in the South Carolina Code of Laws, WE, THE APPELLATE PANEL, CONCLUDE THE FOLLOWING AS MATTERS OF LAW:

1. Under § 42-1-130, Claimant was a covered employee at the time in question; and under § 42-1-140, Defendant/Employer was a covered employer under the Act.
2. Under § 42-1-160, Claimant did sustain an injury to his neck/back by accident arising out of and in the course and scope of his employment on August 13, 2012.
3. Under §§ 42-9-10 and 42-1-120, Claimant was entitled to compensation for a period of temporary total disability from August 14, 2012 until November 30, 2012, the date on which Claimant reached maximum medical improvement.
4. Under § 42-15-60, Claimant was entitled to medical, surgical, hospital and other authorized treatment until November 30, 2012, the date on which Claimant reached maximum medical improvement, but not thereafter, there being no evidence that any additional medical treatment would tend to lessen the period of his disability:
5. Under §§ 42-9-10 - 42-9-30, Claimant has sustained no permanent partial disability to the neck/back.
6. Defendants are entitled to credit for all temporary benefits paid after the date of MMI, November 30, 2012, pursuant to *Curiel v. Environmental Management Services*, 655 S.E.2nd

482 (S.C. 2007).

7. Pursuant to S.C. Code Ann. §38-55-510 *et seq.*, the case is to be referred to the Attorney General's Office for further investigation.

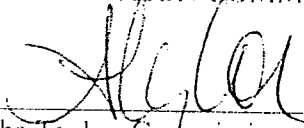
After careful review in the present case, the Appellate Panel of the South Carolina Workers' Compensation Commission has determined that the order of the Hearing Commissioner is hereby AFFIRMED IN FULL. The Findings of Fact and Conclusions of Law found in the Hearing Commissioner's Decision and Order, as specified above, are hereby AFFIRMED IN FULL.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner from which this appeal has been taken is hereby AFFIRMED IN FULL.

IT IS SO ORDERED

SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

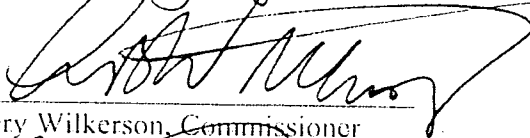


Aisha Taylor, Commissioner
For the Appellate Panel

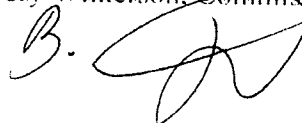
CONCUR:



Melody James, Commissioner



Avery Wilkerson, Commissioner



B. J. [unclear]

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy thereof, postage and delivery prepaid, in an envelope addressed to the attorney or attorneys for said parties.

This 10 day of December, 2013

By Valerie D. Deller

Administrative Assistant to the Commissioner

David Atford

John Coggiola, Esquire