

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

Gertrude Shiver,)
)
 Employee,)
)
 Claimant/Appellant,)
)
 vs.)
)
 Palmetto Health Richland,)
)
 Employer,)
)
 Palmetto Health Trust,)
)
 Carrier,)
)
 Defendants/)
 Respondents)

Case No.: 2015-CP-40-001109

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ORDER

W.C.C. File No.: 0217755

This is an appeal from the Order of the South Carolina Workers' Compensation Commission (herein after "Commission") refusing to grant to the Claimant, sanctions against the Employer for failure to pay temporary total disability workers' compensation benefits. For the reasons stated herein below, the Commission Order is affirmed.

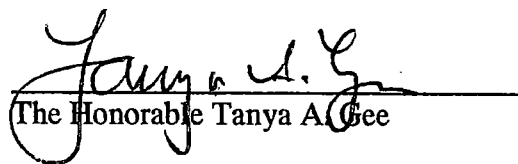
The Claimant injured herself in an accident occurring on March 23, 2002. The Claimant was entitled to temporary total disability benefits from that date until April 8, 2002. There was a long delay in paying those benefits. Those benefits have since been paid. The total amount of those temporary total disability benefits is \$851.68. The Claimant contends that because of the delay, the Employer should be required to pay to her, a 25% penalty in the amount of \$212.92. The basis for this penalty is found in Section 42-9-260(g). Both the Single Commissioner and the Full Commission Appellate Panel disagreed with the Claimant and ruled that the penalty was not

**Gertrude Shiver
1026 Congaree Church Road
Gadsden, SC 29052**

applicable. The Claimant's appeal to the Circuit Court is on the ground that the failure to award her this 25% penalty is an error of law.

The record indicates the reason the Employer did not immediately pay the temporary total disability benefits under the original Order was that the Order awarding these benefits was appealed by the Claimant both to the Full Commission and then to the Circuit Court, and now to the Court of Appeals. The Commission found the Employer acted reasonably in delaying its payment of the temporary total disability benefits because of the Claimant's appeal. This Court agrees that the delay in paying the claimant was caused by good faith confusion on how to proceed. Accordingly, the Full Commission has not committed an error of law in declining to award to the Claimant the 25% penalty under Section 42-9-260(g). It is therefore ordered the December 17, 2014 Order of the South Carolina Workers' Compensation Commission is affirmed.

AND IT IS SO ORDERED.


The Honorable Tanya A. Gee

Columbia, South Carolina
November 9, 2015

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGM. IN A CIVIL CASE

CASE NUMBER: 2015CP4000169

Gertrude Shiver

Palmetto Health Richland

Palmetto Health Trust

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled |
|---|---------------------------------------|--------------------------------|
| | | \$ |
| | | \$ |
| | | \$ |

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 16 November 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Gertrude Shiver

Lana H. Sims Jr.

F. Earl Ellis Jr.

Gertrude Shiver

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. [Signature]

FILED
2015 NOV 16 AM 11:34
RICHLAND COUNTY
JANETTE W. [Signature]