

APPELLATE PANEL
DECISION AND ORDER
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO.: 1801055

James M. Stevenson,
Claimant/Appellant,

-vs-

Arnold Laney D/B/A Metal & Roofing Shingle Pros,
Employer,

-and-

South Carolina Workers' Compensation
Uninsured Employers' Fund,
Defendant/Appellant.

RECEIVED

APR 10 2019

SC Court of Appeals

Appellate Panel Review held in Columbia, South Carolina
on January 22, 2019 per notices timely and properly served
upon all parties of interest.

Appellate Panel Decision and Order filed on
March 13, 2019

APPEARANCES: Claimant/ Respondent represented by C. Daniel Vega, Esq. of
Chappell, Smith & Arden, P.A. of Columbia, South Carolina

Arnold Laney d/b/a Metal & Roofing Shingle Pros did not
appear.

South Carolina Workers' Compensation Uninsured Employers'
Fund represented by Timothy B. Killen, Esquire of Holder,
Padgett, Littlejohn and Prickett, LLC of Mount Pleasant, South
Carolina.

STATEMENT OF THE CASE

This matter arises from the Claimant's/Appellant's (Claimant) Form 50, Request for Hearing, dated January 30, 2018, Defendant/Respondent South Carolina Workers' Compensation Uninsured Employers' Fund's (Fund) Form 51, dated March 2, 2018, and by operation of S.C. Code Ann. Reg. 67-603.

This case was heard by the Single Commissioner on May 1, 2018, and his Order was entered on June 29, 2018. The Single Commissioner found, *inter alia*, that the Claimant failed to prove that the Employer was subject to the terms and provisions of the South Carolina Workers' Compensation Act (the Act). Therefore, the Claimant's claims for benefits were denied.

The Single Commissioner's Findings of Fact and Conclusions of Law are as follows:

FINDINGS OF FACT **(SINGLE COMMISSIONER)**

1. Claimant alleges that he sustained injuries to his right ankle, right knee and low back while working for Arnold Laney d/b/a Metal & Roofing Shingle Pros.
2. Arnold Laney d/b/a Metal & Roofing Shingle Pros did not have four or more regularly employed employees, and therefore, was not subject to the Act. This finding is based on the credible testimony of Mr. Laney and also the Claimant's testimony that failed to establish the same.
3. The Claimant presented no corroborating testimony. He testified that his own father worked for the alleged employer, but his father did not testify.
4. The Claimant was not regularly employed by Arnold Laney and was not an "employee" as defined by the Act.
5. Claimant's testimony was not credible regarding his work and his criminal history.
6. The Claimant has not established that this claim is within the jurisdiction of the Workers' Compensation Commission.
7. All claims for benefits are denied.

CONCLUSIONS OF LAW
(SINGLE COMMISSIONER)

1. On the alleged date of accident, the Claimant was not an employee of Arnold Laney d/b/a Metal & Roofing Shingle Pros pursuant to Section 42-1-130 SC Code of Laws (1976).

2. Pursuant to Section 42-1-150 Arnold Laney d/b/a Metal & Roofing Shingle Pros is not subject to the SC Workers' Compensation Act.

3. All claims in this matter are denied.

Within the statutory period, Claimant filed an Application for Review in the case setting forth their assignments of error, copies of which were furnished to all interested parties prior to oral argument presented before the Appellate Panel on January 22, 2019. In his Form 30, Claimant respectfully submitted to the Full Commission that the Single Commissioner erred in Findings of Fact Two (2), Three (3), Four (4), Five (5), and Six (6); Claimant further submitted that the Single Commissioner erred in Conclusions of Law One (1), Two (2), and Three (3); finally, Claimant submitted that the Single Commissioner erred in ordering that the Claimant was not an employee under the Act, in ordering that Employer was not subject to the Act, in ordering that Claimant did not meet his burden of proof that Employer had four (4) or more regularly employed employees, and in ordering that Claimant's claim for benefits was denied.

Pursuant to S.C. Code Ann. § 42-17-50, we, the Appellate Panel, have reviewed the Decision and Order of the Single Commissioner and weighed the evidence as presented at the initial hearing. We have also considered all issues raised in the briefs of the Appellants and Respondents, as well as those issues raised at the Full Commission Review hearing.

After careful review, The Appellate Panel of the South Carolina Workers' Compensation Commission, by unanimous vote, have determined that the Hearing Commissioner's Findings of Fact and Conclusion of Law are corrected as stated and should be affirmed. More specifically, we fully affirm and adopt the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Claimant alleges that he sustained injuries to his right ankle, right knee and low back while working for Arnold Laney d/b/a Metal & Roofing Shingle Pros.
2. Arnold Laney d/b/a Metal & Roofing Shingle Pros did not have four or more regularly employed employees, and therefore, was not subject to the Act. This finding is based on the credible testimony of Mr. Laney and also the Claimant's testimony that failed to establish the same.
3. The Claimant presented no corroborating testimony. He testified that his own father worked for the alleged employer, but his father did not testify.
4. The Claimant was not regularly employed by Arnold Laney and was not an "employee" as defined by the Act.
5. Claimant's testimony was not credible regarding his work and his criminal history.
6. The Claimant has not established that this claim is within the jurisdiction of the Workers' Compensation Commission.
7. All claims for benefits are denied.

CONCLUSIONS OF LAW

1. On the alleged date of accident, the Claimant was not an employee of Arnold Laney d/b/a Metal & Roofing Shingle Pros pursuant to Section 42-1-130 SC Code of Laws (1976).
2. Pursuant to Section 42-1-150 Arnold Laney d/b/a Metal & Roofing Shingle Pros is not subject to the SC Workers' Compensation Act.
3. All claims in this matter are denied.

ORDER

By unanimous vote, the Order of the Single Commissioner from which this appeal has been taken is hereby Affirmed by the Appellate Panel. This order shall constitute the final Decision and Order of the South Carolina Workers' Compensation Commission.

IT IS, THEREFORE, ORDERED that the Order of the Single Commissioner dated June 29, 2018, is hereby **AFFIRMED**.

IT IS, THEREFORE, ORDERED that the Findings of Fact and Conclusions of Law of the Single Commissioner are incorporated herein as if set forth verbatim.

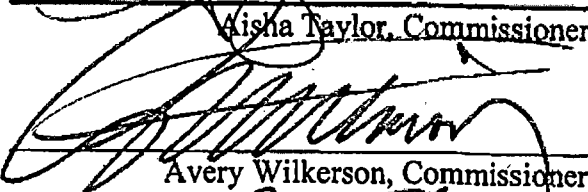
IT IS THEREFORE ORDERED that the Claimant was not an "employee" under the Act and that the alleged employer was not subject to the SC Workers' Compensation Act as the Claimant did not meet his burden of proof that the alleged employer had four or more regular employees, and all claims in this matter are denied.

AND IT IS SO ORDERED!

FULL AFFIRMATION:

**SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION**


Aisha Taylor, Commissioner


Avery Wilkerson, Commissioner


Gene McCaskill, Commissioner

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on March 13, 2019