

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G306150

TERRY DAVIS, Employee

CLAIMANT

COMPLETE TOWING LLC, Uninsured Employer

RESPONDENT

OPINION FILED JANUARY 5, 2015

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant represented by JASON M. HATFIELD, Attorney, Fayetteville, Arkansas.

Respondent represented by DAVID HOGUE, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

The claimant has asked the Commission to determine a monetary amount of benefits the claimant is entitled to pursuant to an opinion filed by this administrative law judge on February 3, 2014. That opinion was not appealed and has become the law of this case and res judicata.

Following are the stipulations and issues that were considered in the opinion filed February 3, 2014:

STIPULATIONS

1. The Arkansas workers' Compensation Commission has jurisdiction of this claim.

2. On all relevant dates, the relationship of employee-employer-carrier existed between the parties.

ISSUES

1. Whether the claimant's alleged left knee injury of February 3, 2013, is compensable.

2. Whether the claimant is entitled to related medical for his alleged injury.

3. Whether the claimant is entitled to temporary total disability benefits from July 3, 2013, to a date to be determined.

4. Whether the claimant's attorney is entitled to an attorney's fee.

The Findings of Fact & Conclusions of Law and the Order from that same February 3, 2014 are as follows:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on September 4, 2013, and contained in a pre-hearing order filed September 4, 2014, are hereby accepted as fact.

2. The relationship of employee/employer existed between the claimant and the respondent under the Arkansas Workers' Compensation Act.

3. The claimant was performing employment services on February 3, 2013, when he suffered a fall at the home of Ms. Phillips, the uninsured owner of the employer, Complete Towing.

4. The claimant has proven by a preponderance of the evidence that his average weekly wage was \$425.00 on February 3, 2013.

5. The claimant has proven by a preponderance of the evidence that he suffered a compensable left knee injury on February 3, 2013.

6. The claimant has proven by a preponderance of the evidence that he is entitled to reimbursement for out of pocket medical

expenses regarding his left knee and continued reasonable and necessary medical treatment.

7. The claimant has proven by a preponderance of the evidence that he is entitled to temporary total disability benefits from July 3, 2013, to September 6, 2013, less any dates when the claimant was employed as a private security guard.

8. The claimant has proven by a preponderance of the evidence that he his attorney is entitled to an attorney's fee in this matter that is commensurate with the Arkansas Workers' Compensation Act and the benefits awarded herein.

ORDER

The respondent shall reimburse the claimant for any out of pocket medical expenses regarding the medical treatment for his compensable left knee injury and bear the burden of the cost of future expenses that are both reasonable and necessary medical treatment for his compensable left knee injury.

The respondent shall also pay the claimant temporary total disability benefits from July 3, 2013, to September 6, 2013, less any time period the claimant was performing private security work.

The respondents shall pay to the claimant's attorney the maximum statutory attorney's fee on the benefits awarded herein, with one half of said attorney's fee to be paid by the respondents in addition to such benefits and one half of said attorney's fee to be withheld by the respondents from such benefits pursuant to Ark. Code Ann. §11-9-715.

All benefits herein awarded which have heretofore accrued are payable in a lump sum without discount.

This award shall bear the maximum legal rate of interest until paid.

In a letter filed with the Commission on August 11, 2014, the claimant's attorney requested that the Commission conduct a hearing in order to make a monetary determination regarding this administrative law judge's February 3, 2014 opinion. That hearing was conducted on October 14, 2014 in the Arkansas Workers' Compensation Commission's Springdale offices. At that time the claimant was represented by his attorney, Mr. Jason Hatfield, and the respondent, who is uninsured, was represented by Mr. David Hogue.

No witnesses were called at the hearing. Both the claimant's attorney and the respondent's attorney had the opportunity to address the Commission regarding their position as to a monetary figure from the Commission's opinion filed February 13, 2014. At the hearing in this matter the claimant's attorney entered two exhibits, Claimant's Exhibit 1 and Claimant's Exhibit 2. Claimant's Exhibit 1 is a letter by the claimant's attorney addressed to this administrative law judge regarding his position on the monetary amounts he believes are owed to the claimant due to this administrative law judge's February 3, 2014 opinion. Claimant's Exhibit #2 is an exhibit of medical bills that the claimant alleges to be owed to him or medical providers.

After review of this administrative law judge's February 3, 2014 opinion, as well as the exhibits introduced in the current matter and argument of counsel, I find that the claimant is entitled to a monetary amount of \$4,488.67. The amount of \$4,488.67 is broken down as follows: The claimant is entitled to \$2,266.67 in the form of temporary total disability benefits. Those benefits were calculated for a period of eight weeks at a temporary total disability rate of \$283.00 per week which totals \$2,266.67. The respondent is also ordered to pay the claimant one-half of the attorney's fee associated with those temporary total disability benefits. One-half of the attorney's fee in this matter would total \$283.33. The respondent is also ordered to pay the claimant for out-of-pocket expenses in the amount of \$1,938.67. These three benefits - temporary total disability, one-half of an attorney's fee, and reimbursement for out-of-pocket expenses - total \$4,488.67. I note for the record in this matter that Mr. Hogue, the attorney for the respondent, stated at the hearing:

"Judge, we will stipulate to the figures that Mr. Hatfield has provided and certainly are not objecting today to an order from this court regarding a monetary amount of \$4,488.64."

This monetary determination in no way reflects any monies owed by the respondent to medical providers who provided reasonable and necessary medical treatment for the claimant's compensable injury. The monetary amount of \$4,488.67 reflects only the total dollar amount payable by the respondent to the claimant and his attorney.

It does not consider monies owed by the respondent to medical providers.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The claimant is entitled to temporary total disability benefits in the amount of \$2,266.67.

2. The claimant is entitled to have his attorney paid one-half of the attorney's fee in this matter which equals \$283.33.

3. The claimant is entitled to payment for out-of-pocket expenses in the amount of \$1,938.67.

ORDER

_____ Respondent shall pay to the claimant the sum of \$4,205.34.

Respondent shall pay to the claimant's attorney \$283.33.

All sums herein accrued are payable in a lump sum without discount and this award shall bear interest at the maximum legal rate until paid.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE