

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F103361

DELORES TAYLOR,
EMPLOYEE

CLAIMANT

CARWELL ELEVATOR CO., INC.,
EMPLOYER

RESPONDENT

FREMONT PACIFIC,
INSURANCE CARRIER

RESPONDENT

ORDER FILED JANUARY 13, 2004

Upon review before the FULL COMMISSION in Little Rock,
Pulaski County, Arkansas.

Claimant represented by HONORABLE ROBERT J. DONOVAN,
Attorney at Law, Marianna, Arkansas.

Respondents represented by HONORABLE JEREMY SWEARINGEN,
Attorney at Law, Little Rock, Arkansas.

Decision of the Administrative Law Judge: Affirmed.

ORDER

The respondents in the above-styled matter have filed a
Motion For Stay Of Deliberation And For Remand To
Administrative Law Judge For Issuance Of Order To Compel.

The respondents state, among other things, that the claimant
should undergo a medical evaluation from Dr. James
Mulhollan. The claimant has filed no response to the
motion.

Ark. Code Ann. § 11-9-511(a) provides that an injured
employee claiming to be entitled to compensation shall

submit to such physical examination and treatment by another qualified physician, designated or approved by the Commission, as the Commission may require from time to time if reasonable and necessary. The threshold question is whether the proposed examination is reasonably necessary. King v. Willow Oaks Acres, Workers' Compensation Commission E903202 (Jan. 25, 2001). Based on the record before us, the Full Commission finds that an examination from Dr. Mulhollan would be reasonably necessary in connection with the claimant's compensable injury.

However, we deny the respondents' request that the Commission "stay deliberations on the current compensation rate issue on remand from the Arkansas Court of Appeals[.]" The Court of Appeals has indeed remanded to the Commission for further development of the claimant's correct compensation rate. Carwell Elevator Company, Inc. v. Taylor, CA03-500 (Ark. App. Nov. 12, 2003). We can see no statutory provision, applicable case law, or any other practical reason to prevent the Full Commission from adjudicating the correct compensation rate while the claimant undergoes another medical examination. Nor is a remand to the administrative law judge necessary to order such a medical evaluation.

Therefore, the Full Commission directs that the claimant undergo an evaluation with Dr. James Mulhollan at 1 p.m. on Thursday, January 29, 2004. The respondents shall be responsible for reasonable travel expenses for the evaluation. We deny the respondents' motion for remand and to stay proceedings. All other aspects of the Full Commission's January 14, 2003 opinion with regard to temporary total disability compensation and reasonably necessary medical treatment shall remain in effect.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner