

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E709892

THOMAS WILSON, EMPLOYEE

CLAIMANT

ARMSTRONG TOOLS, EMPLOYER

RESPONDENT

OPINION FILED APRIL 22, 2004

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

Claimant represented by HONORABLE JAY TOLLEY, Attorney at Law, Fayetteville, Arkansas.

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

Decision of Administrative Law Judge: Denied and Dismissed.

OPINION AND ORDER

Claimant appeals from a letter order issued October 3, 2003, denying claimant's motions to compel respondents to produce through discovery evidence as to the carriers' payments to its attorneys. Based upon our de novo review of the entire record, we find that the October 3, 2003, Letter Order was an interlocutory order and is not appealable. Therefore, we find that claimant's appeal must be denied and dismiss and this matter remanded to the Administrative Law Judge to conduct the hearing that was cancelled when this order was appealed.

After a hearing and an award of benefits, the claimant filed a claim for additional compensation.

Respondents raised the affirmative defense of the claim being barred by the statute of limitations. Through discovery respondents produced the carrier's payment record. These records were admittedly altered by the respondents to redact the amount of each payment made by the carrier to its counsel. We need not reach a finding at this time regarding whether such information was discoverable, or whether it was reasonably calculated to lead to discoverable evidence relevant to the issues before the commission, as the letter order is not a final appealable order.

In Spears v. George's, Full Commission Opinion Filed November 17, 1997 (Claim No. E417491), the Commission stated:

As a general rule, workers' compensation orders are ordinarily reviewable only at the point where they award or deny compensation. TEC v. Falkner, 38 Ark. App. 13, 827 S.W.2d 661 (1992). Consequently, a party may apply for review of an administrative law judge's decision as a matter of right only at the point when the decision effectively grants or denies compensation. An interlocutory order is provisional or preliminary and does not finally determine any portion of the litigation. Unlike a final order, an interlocutory order is subject to change during the pendency of an action to meet the exigencies of a case.

However, the Full Commission is an administrative body statutorily vested with full power and authority to adjudicate disputes. Because the Commission can delegate that power to administrative law judges, it is authorized to review any administrative law judge's action to assure that he has properly administered his delegated authority. Ark. Code Ann. § 11-9-207(a)(1) (Repl. 1996). See also, Ark. Code Ann. § 11-9-204(b)(2).

In Humphrey v. Faulkner Nursing Center, 61 Ark. App. 48, 964 S.W.2d 224 (1998), the Arkansas Court of Appeals found that "[f]or an order to be final, the order must dismiss the parties from the court, discharge them from the action or conclude their rights as to the cause of action."

As noted by the Full Commission in Barbosa v. Curt Bean Lumber Co., Full Commission Opinion filed September 3, 2003(Claim No. F004211) ..."a party may apply for review of an administrative law judge's decision as a matter of right only at the point when the decision effectively grants or denies compensation." The October 3, 2003, Letter Order does not grant or deny compensation. Accordingly, this order is an interlocutory order and is not appealable.

Therefore, we find that claimant's appeal must be, and hereby is denied and dismissed. This claim is remanded to the Administrative Law Judge to conduct the hearing which was unnecessarily delayed by claimant's appeal of an interlocutory order.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.