

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F208714

DUSTIN DEWAYNE BATES, MINOR CHILD CLAIMANT  
CAROLINE HICKS, MINOR CHILD AND  
JAMIE HICKS, WIDOW OF  
JERRY HICKS (DEC'D.), EMPLOYEE

NUCOR STEEL OF ARKANSAS, EMPLOYER RESPONDENT NO. 1

LIBERTY MUTUAL INSURANCE CO., CARRIER RESPONDENT NO. 1

DEATH & PERMANENT TOTAL  
DISABILITY TRUST FUND RESPONDENT NO. 2

**ORDER FILED APRIL 16, 2008**

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

Claimant, Dustin Bates, represented by HONORABLE JOHN BARTTELT, Attorney at Law, Jonesboro, Arkansas, HONORABLE JAMES C. BULLARD, Attorney at Law, Kennett, Missouri.

Claimant, Caroline Hicks, represented by HONORABLE W. EDWARD REEVES, Attorney at Law, Caruthersville, Missouri.

Claimant, Jamie Hicks, represented by HONORABLE WILLIAM W. CARTER, Attorney at Law, Hayti, Missouri.

Respondent No. 1 represented by HONORABLE DAVID C. JONES, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by HONORABLE JUDY RUDD, Attorney at Law, Little Rock, Arkansas.

ORDER

Presently before the Commission are Claimant's Motion to Set Appeal Bond and the Death and Permanent Total Disability Trust Fund's Motion to Expedite Dismissal of Cross-Appeal to the Arkansas Court of Appeals. After giving

due consideration to both motion and based upon our review of the record, we find that the Claimant's Motion to Set Appeal Bond must be denied. We further find that the Death and Permanent Total Disability Trust Fund's Motion to Expedite Dismissal of Cross-Appeal to the Arkansas Court of Appeals must be denied.

Claimants Jamie Hicks and Caroline Hicks move the Commission to stay the Death and Permanent Total Disability Trust Fund from enforcing our April 1, 2008, opinion and to set an appeal bond. Claimant contends that by staying the opinion and posting a bond, the status quo of the parties will be maintained, but that the bond would protect the interest of Dustin Bates, should he ultimately prevail. A.C.A. § 11-9-808 (Repl. 2007) provides that the "Workers' Compensation Commission may require an employer to make a deposit or bond with the commission to secure the prompt and convenient payment of compensation, and payment shall be made upon order of the commission." Jamie Hicks is not an employer, but a beneficiary of death benefits for claimant Jerry Hicks. Accordingly, we are without statutory authority to order Jamie Hicks to post a bond on appeal. Therefore, we

must respectfully deny claimants Jamie Hicks' and Caroline Hicks' motion to set appeal bond.

The Death and Permanent Total Disability Trust Fund move the Commission to expedite dismissal of cross-appeal to the Arkansas Court of Appeals. Pursuant to Ark. R. App. P. Rule 3(b), this Commission may dismiss an appeal to the Court of Appeals only if the motion to dismiss is filed with the Commission before the record is docketed with the Court, and if all parties to the appeal petition for dismissal and jointly stipulate that the case is to be dismissed. In Re Arkansas Rules of Appellate Procedure 3(b), 296 Ark. 580, 756 S.W.2d LXXV (1988).

In the present case, the Death and Permanent Total Disability Trust Fund has filed its motion prior to the record being docketed with the Court. However, all parties have not jointly stipulated to dismiss the appeal. Because the Commission is without jurisdiction over this claim, we have no authority to grant the Death and Permanent Total Disability Trust Fund's motion. Therefore, we find that the appeal must be and hereby is denied. The Death and Permanent

Total Disability Trust Fund's motions must be addressed with the Court of Appeals.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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KAREN H. MCKINNEY, Commissioner

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PHILIP A. HOOD, Commissioner