

June 17, 2010

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Re: HF #177, 2002/03 – Givens v John Morrell

Counsel:

This letter will serve as my ruling and order on Mr. Folkers' Motion for Summary Judgment, based on the submissions in the file as allowed by ARSD 47:03:01:08. Judge Hageman was assigned to this case, but as the majority of it has settled, no hearing has been conducted, and Judge Hageman's caseload is such that it could be some time before he is able to issue a ruling, I took it upon myself to review the file.

The two issues affected by the motion are whether Claimant can demonstrate a continued need for medical treatment to her wrist stemming from her 2001 injury with Employer, and whether a connection between that injury and any psychological condition can be demonstrated. The parties agree the relevant facts are obtained from their Stipulation of Facts.

The Stipulation of Facts will serve as the Department's Findings of Fact relative to that ruling, and the Department adds the following Conclusions of Law:

1. The Department has jurisdiction over the parties and subject matter in this action.
2. Summary judgment may be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that Employer is entitled to a judgment as a matter of law. ARSD 47:03:01:08.

3. Claimant is required to prove all facts essential to her claims.
4. Given that any inferences to be made from the facts are to be read in a manner most favorable to Claimant, the parties' Stipulation of Facts does not reveal any genuine issue of material fact concerning Claimant's entitlement to benefits.
5. Employer's Motion for Summary Judgment should be granted, and Claimant's petition for benefits should be dismissed.
6. The Department incorporates any conclusions of law contained in its letter ruling in these Conclusions of Law.

It is therefore ORDERED that Employer's Motion for Summary Judgment be GRANTED, and Claimant's petition be DISMISSED, with prejudice. This shall represent a final ruling of the Department on the issues in the Petition for Hearing, subject to the parties right to Secretarial review and appeal under the statutes.

Sincerely,

James E. Marsh
Director