

SOUTH DAKOTA DEPARTMENT OF LABOR AND REGULATION
DIVISION OF LABOR AND MANAGEMENT
Pierre, South Dakota

Worker's Compensation

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DOUGLAS WILSON, * HF No. 90, 2010/11
* (and 91, 2010/11)
Claimant, *
*
and *
*
KELLY GROGAN, *
*
Claimant, * ORDER
*
vs. *
*
CITY OF SIOUX FALLS, *
*
Employer/Self-Insurer. *
*

The above-entitled matter was heard before Administrative Law Judge Catherine Duenwald, pursuant to SDCL 62-7-12 and ARSD 47:03:01. Claimants appeared personally, by and through their attorneys of record, Mr. Thomas K. Wilka and Ms. Jaclyn R.S. Aberson of Hagen Wilka & Archer, LLP. Employer and Insurer appeared through its attorneys of record, Mr. Rick W. Orr and Mr. Timothy M. Gebhart, of Davenport, Evans, Hurwitz & Smith, LLP and Ms. Gail Eiesland of the City Attorney's Office. The Department conducted an evidentiary hearing on March 25, 2013, and both sides submitted written briefs on the issues. The Department entered a written Decision dated October 11, 2013. The Department, now having entered Findings of Fact and Conclusions of Law, dated November 2, 2013, and incorporating the Decision, and Finding of Fact and Conclusions of Law herein, hereby makes this ORDER.

IT IS ORDERED, that Kelly Grogan's petition for hearing is hereby denied, dismissed on its merits and with prejudice;

IT IS FURTHER ORDERED, that Douglas Wilson's petition for hearing is granted. Mr. Wilson is found to be permanently and totally disabled due to an occupational disease. He is awarded all medical benefits and indemnity benefits, as provided for under South Dakota law. The City of Sioux Falls, as the Employer and Self-Insurer, is responsible for the payment of these benefits.

IT IS FINALLY ORDERED that the petition by Mr. Wilson and Mr. Grogan for sick leave days to be awarded, pursuant to a collective bargaining agreement, is Denied. The Department lacks jurisdiction to grant the prayer for relief.

Dated at Pierre, South Dakota, this 1st day of July, 2016.

SOUTH DAKOTA DEPARTMENT OF LABOR
AND REGULATION

Catherine Duenwald
Administrative Law Judge
Division of Labor and Management