

February 12, 2009

James G. Abourezk
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LETTER ORDER

Kristi Geisler Holm
Davenport, Evans, Hurwitz & Smith LLP
PO Box 1030
Sioux Falls, SD 57101-1030

RE: HF No. 139, 2007/08 – Adam Tebben v. Target Corporation

Dear Mr. Abourezk and Ms. Holm:

I am in receipt of Claimant's Motion to Extend Discovery Deadlines in the above-referenced matter. I am also in receipt of Employer/Self-Insurer's Opposition to Extend Discovery Deadline and Claimant's Reply to Insurer's Objection to Extend Discovery. I have carefully considered these submissions in addressing the pending Motion.

The Department entered a Scheduling Order pursuant to ARSD 47:03:01:12 dated June 16, 2008. The deadlines were determined based on input from both parties. The deadline for filing discovery requests was set for October 15, 2008, the deadline for completion of discovery was set for November 20, 2008 and the deadline for filing prehearing motions is November 30, 2008. The Scheduling Order further stated that the Order may not be modified except by Order of the Department upon showing of good cause.

Claimant moves the Department for an order to extend deadlines for discovery in this action in order to allow Claimant to obtain the claims file held by Employer/Self-Insurer, so that Claimant might better evaluate settlement offers that are being made by Employer/Self-Insurer.

A hearing is scheduled in this matter on March 20, 2009. A telephonic prehearing conference was held on January 12, 2009. Claimant did not indicate at that time that he intended to conduct further discovery.

This prehearing motion was received by the Department on January 29, 2009, well past the November 20, 2008, deadline for completion of discovery and the November 30, 2008, deadline for filing of prehearing motions. This request is not based on newly discovered evidence and the Claimant had sufficient time within the original deadlines to make such discovery requests of the Employer/Self-Insurer.

Having failed to make a showing of good cause, Claimant's Motion to Extend Discovery Deadlines is denied.

This letter shall serve as the Department's Order.

Sincerely,

Taya M. Dockter
Administrative Law Judge