

February 20, 2024

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**LETTER DECISION ON MOTION FOR
SUMMARY JUDGMENT**

Melquiedes Gonzales
1818 Arizona Ave., Apt. 226
Huron, SD 57350-3481

RE: HF No. 2, 2023/24, Mel Gonzales v. South Dakota State Fair and State of South Dakota

Greetings:

This letter decision addresses Employer and Insurer's Motion for Summary Judgment received by the Department of Labor & Regulation (Department) on December 8, 2023. All responses have been considered.

Employer and Insurer assert that Gonzales failed to timely respond or object to their requests for admissions, which they argue are deemed admitted pursuant to SDCL § 15-6-36(a)-(b). The admissions indicate that: (1) Gonzales's workplace injury is not a major contributing cause of his current condition. (2) Gonzales failed to provide timely notice of his injury; (3) Gonzales is not permanently totally disabled; and (4) all benefits sought by Gonzales for his workplace injury have been paid. Employer and Insurer contend that no genuine dispute remains as to any of these material facts, and that Gonzales's Petition for Hearing should be dismissed as a matter of law.

The Department's authority to grant summary judgment is established in ARSD 47:03:01:08 which provides:

A claimant or an employer or its insurer may, any time after expiration of 30 days from the filing of a petition, move with supporting affidavits for a summary judgment. The division shall grant the summary judgment immediately 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 the moving party is entitled to a judgment as a matter of law.

In matters of summary judgment, the moving party bears the burden of demonstrating the lack of any genuine issue of material fact, and all reasonable inferences from the facts are viewed in the light most favorable to the non-moving party. *Stromberger Farms, Inc. v. Johnson*, 2020 S.D. 22, ¶ 31, 942 N.W.2d 249, 258-59 (citations omitted). The non-moving party must present specific facts showing that a genuine issue of material facts exists. *Id.* at ¶ 34.

In his response to this motion, Gonzales recounts how his injury allegedly occurred. However, he does not address his failure to respond to Employer and Insurer's request for admissions. He also did present specific facts showing a genuine issue of material fact exists. Therefore, the Department concludes that no issues of material fact remain, and Employer and Insurer are entitled to judgment as a matter of law.

It is hereby ORDERED that Employer and Insurer's Motion for Summary Judgment is GRANTED. Hearing file #12, 23.24 is DISMISSED.

This letter shall constitute the order in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Michelle Faw". The signature is written in a cursive, flowing style.

Michelle M. Faw
Administrative Law Judge

MMF/das

cc: TJ Von Wald

