

December 2, 2024

Joshua Henricksen
3516 S. Outfield Circle
Sioux Falls, SD 57108

Sent Certified: 7016 3010 0000 0592 8161

**LETTER DECISION ON MOTION FOR
SUMMARY JUDGMENT**

Kerri Cook Huber
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RE: HF No. 76, 2022/23, Joshua Henricksen v. Sunterra Farms Iowa, Inc. and Service American Indemnity Company

Greetings:

This letter decision addresses Employer and Insurer's Motion for Summary Judgment received by the Department of Labor & Regulation (Department) on August 23, 2024. Joshua Henricksen (Henricksen) was given until September 26, 2024, to provide resistance to this Motion.

Employer and Insurer move for summary judgment on the grounds that although Henricksen alleges that he was injured while doing load outs on December 14, 2020, based on his Time Sheet Mobile entries, he did not do any load outs on that day. Additionally, Employer and Insurer assert that he failed to provide timely notice of an alleged injury and had no good cause to justify this failure.

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.

On September 26, 2024, Henricksen's counsel moved to withdraw as his attorney. The Department's Order sent out on September 30, 2024, granting the withdrawal directed Henricksen that he is responsible for moving this matter forward with or without counsel. As Henricksen has not provided any response to Employer and Insurer's motion and has, therefore, also not provided specific facts showing a genuine issue of material facts exists, the Department concludes that summary judgment is appropriate in this matter.

It is hereby ORDERED that Employer and Insurer's Motion for Summary Judgment is GRANTED. Hearing file #76, 2022/23 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