

October 15, 2024

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Laura K. Hensley
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RE: HF No. 89, 2023/24 – Smithfield Foods, Inc. a/k/a Smithfield Packaged Meats Corp.
v Martina Del Cid Solares

Greetings:

The Department of Labor & Regulation (Department) received Smithfield Foods (Smithfield) Motion for Summary Judgment on July 9, 2024. Martina Del Cid Solares (Claimant) was given until August 11, 2024, to offer a response, but did not do so. The Department will now consider the motion without benefit of a response. Smithfield has moved for summary judgment on the grounds that Claimant failed to identify or disclose sufficient medical evidence to establish her alleged workplace injuries are a major contributing cause of her medical condition and need for treatment.

The Department's authority to grant summary judgment is established in ARSD

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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.

The party seeking summary judgment 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. “A fact is material when it is one that would impact the outcome of the case ‘under the governing substantive law’ applicable to a claim or defense at issue in the case.” *A-G-E Corp. v. State*, 2006 SD 66, ¶ 14, 719 N.W.2d 780, 785.

“No recovery may be had where the claimant has failed to offer credible medical evidence that [her] work-related injury is a major contributing cause of [her] current claimed condition.” *Darling v. West River Masonry, Inc.*, 2010 S.D. 4, ¶ 13, 777 N.W.2d at 367. The testimony must establish causation to “a reasonable degree of medical probability, not just possibility.” *Jewett v Real Tuff, Inc.*, 2011 S.D. 33, ¶ 23, 800 N.W. 2d 345, 350. Claimant has not provided a response to Smithfield’s motion and has, therefore, not shown specific facts indicating a genuine issue of material fact exists. Claimant has further failed to identify or disclose sufficient medical evidence to establish her alleged workplace injuries are a major contributing cause of her medical condition and need for treatment. Therefore, Claimant is unable to sustain her burden of proof and summary judgment is proper.

It is hereby ORDERED that Employer and Provider's Motion for Summary Judgment is GRANTED. Hearing file 89, 2023/24 is dismissed with prejudice. 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