
In the Matter of the Compensation of
DARRYL K. BOETTGER, Claimant
Own Motion No. 04-0163M
OWN MOTION ORDER
Dale C Johnson, Claimant Attorneys
Scheminske et al, Defense Attorneys

Reviewing Panel: Members Kasubhai and Lowell.

The self-insured employer submitted a “Carrier’s Own Motion Recommendation,” recommending against the reopening of claimant’s 1996 injury claim for a worsening of his previously accepted low back condition. *See* ORS 656.278(1)(a) (2001). Claimant’s aggravation rights on that claim have expired.

On April 13, 2004, the employer issued a denial. Claimant requested a hearing regarding the employer’s denial. On May 28, 2004, we deferred action on the Own Motion matter pending the litigation before the Hearings Division. (WCB Case No. 04-02870). On June 16, 2004, claimant withdrew his request for hearing.

On June 21, 2004, Administrative Law Judge (ALJ) Tenenbaum issued an Order of Dismissal, which dismissed claimant’s hearing request. That order has not been appealed and has become final by operation of law. Thus, the denial is final by operation of law. ORS 656.319(1). Consequently, claimant’s medical services claim for his accepted low back condition remains in denied status.

Under such circumstances, we are unable to authorize the reopening of the claim for a worsening of his previously accepted condition under ORS 656.278(1)(a) (2001). *James J. Kemp*, 54 Van Natta 491 (2002). Accordingly, the request for claim reopening is denied.

IT IS SO ORDERED.

Entered at Salem, Oregon on August 13, 2004