
In the Matter of the Compensation of
BONNIE MARINO-BLAIR, Claimant
WCB Case No. 02-05414
ORDER REMANDING
Claimant Unrepresented
Mark P Bronstein, Defense Attorneys

Reviewing Panel: Members Biehl and Langer.

Claimant has requested Board review of Administrative Law Judge (ALJ) Somers' order that upheld the self-insured employer's denial of her occupational disease claim for a left wrist condition. Based on the following reasoning, the ALJ's order is vacated and this case is remanded.

Following claimant's request for review, the Board's staff ordered a transcript of the proceedings. However, the court reporting service advised the Board that the second of three audio tapes of the October 17, 2003 hearing has been misplaced and that therefore the transcript is incomplete. The Board's staff counsel proposed that the parties confer regarding the possibility of submitting a stipulation of facts addressing the omitted hearing events, to supplement the existing transcript. The parties have not reached an agreement regarding submission of stipulated facts.

Should we determine that a case has been improperly, incompletely or otherwise insufficiently developed, we may remand to the ALJ for further evidence taking, correction or other necessary action. *See* ORS 656.295(5). Considering the aforementioned circumstances, we conclude that remand is warranted. *See John Gostevsky*, 54 Van Natta 278 (2002); *Bruce W. Burroughs*, 52 Van Natta 1505 (2000).

Accordingly, the ALJ's November 17, 2003 order is vacated and the matter is remanded to ALJ Somers with the following instructions.¹ The ALJ shall

¹ Finally, inasmuch as claimant is unrepresented, he may wish to consult the Workers' Compensation Ombudsman, whose job it is to assist injured workers in such matters. He may contact the Workers' Compensation Ombudsman, free of charge, at 1-800-927-1271, or write to:

WORKERS' COMPENSATION OMBUDSMAN
DEPT OF CONSUMER & BUSINESS SERVICES
PO BOX 14480
SALEM, OR 97309-0405

reopen the record for the purpose of reproducing the missing portion of the hearing transcript. That reproduction of the events that transpired during the missing part of the hearing transcript, including the taking of any testimony, may be achieved in any manner the ALJ deems achieves substantial justice. Only the witness who testified at the prior hearing shall be permitted to present testimony. After this reproduction of the missing portion of the record is completed, the ALJ shall reclose the record. Thereafter, the ALJ shall issue a final, appealable Order on Remand addressing the effect, if any, the record presented on remand has had upon her prior order.

IT IS SO ORDERED.

Entered at Salem, Oregon on May 4, 2004