

In the Matter of the Compensation of
ELLEN E. HALE, Claimant

WCB Case No. 06-05986, 06-02185, 06-02184, 06-02115, 06-02114, 06-01389,
06-00663, 06-00662, 06-00661, 06-00660, 06-00528, 06-00453, 06-00452

ORDER ON RECONSIDERATION (REMANDING)

Law Offices of Karl G Anuta PC, Claimant Attorneys

Wallace Klor & Mann PC, Defense Attorneys

Law Offices of Steven T Maher, Defense Attorneys

Andersen & Nyburg, Defense Attorneys

VavRosky MacColl PC, Defense Attorneys

Gilroy Law Firm, Defense Attorneys

Julie Masters, SAIF Legal, Defense Attorneys

Reinisch MacKenzie PC, Defense Attorneys

Ronald W Atwood & Assocs, Defense Attorneys

Sather Byerly & Holloway, Defense Attorneys

Sheridan Levine LLP, Defense Attorneys

Reviewing Panel: Members Langer and Biehl.

On January 21, 2009, we withdrew our December 29, 2008 order that vacated an Administrative Law Judge's (ALJ's) order regarding the compensability of claimant's occupational disease claim for non-Hodgkins lymphoma, seizures, and hearing loss. We took this action to consider the employer's motion for reconsideration. Having received claimant's response, we proceed with our reconsideration.

In our prior order, we vacated the ALJ's order based on our finding that the ALJ had impermissibly limited the proposed evidence for admission at hearing. Reasoning that the record was insufficiently developed, we remanded.

On reconsideration, the employer asserts that the ALJ had reversed the April 2007 evidentiary ruling that formed the basis for our remand. Therefore, the employer contends that remand is not appropriate.

This precise issue was addressed in a related case, *Steven D. Phelps*, 61 Van Natta ___ (February 13, 2009) (*on recons*), which involved the same evidentiary ruling.¹ For the reasons set forth in *Phelps*, we adhere to our December 29, 2008 order.

¹ Although the cases have not been consolidated, the April 2007 evidentiary ruling applied to both cases, and the employer submitted a single reconsideration motion and claimant filed a single response concerning these cases.

Accordingly, on reconsideration, as supplemented herein, we republish our December 29, 2008 order. The parties' rights of appeal shall begin to run from the date of this order.

IT IS SO ORDERED.

Entered at Salem, Oregon on February 19, 2009