
In the Matter of the Compensation of
JANET L. HAMPTON, Claimant
WCB Case No. 08-01950
ORDER ON REVIEW
Unrepresented Claimant
Thomas A Sieg, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Biehl and Langer.

Claimant, *pro se*, requests review of Administrative Law Judge (ALJ) Donnelly's order that dismissed her hearing request.¹ On review, the issue is the propriety of the ALJ's dismissal order.

We adopt and affirm the ALJ's order with the following supplementation.

Claimant signed a retainer agreement authorizing her then-attorney to represent her concerning her workers' compensation claim. On March 21, 2008, claimant's then-attorney filed a hearing request, raising the issues of compensability, unreasonable denial, penalties, and attorney fees.

Before the scheduled hearing, claimant's then-attorney withdrew the hearing request on claimant's behalf. Pursuant to this action, the ALJ issued an order dismissing claimant's hearing request. Thereafter, claimant expressed dissatisfaction with the ALJ's order, asking for "an opportunity to again have [her] case reviewed."

The issue on review is whether claimant's hearing request should have been dismissed. Based on the following reasoning, we find the ALJ's dismissal order appropriate.

Claimant has the burden of proving that the dismissal order was not appropriate. *See Harris v. SAIF*, 292 Or 683, 690 (1982) (burden of proof is upon the proponent of a fact or position, the party who would be unsuccessful

¹ Although represented at hearing, claimant is unrepresented on review. She may wish to consult the Workers' Compensation Ombudsman, whose job it is to assist injured workers. She 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

if no evidence were introduced on either side); *Jesse F. Earley, Sr.*, 55 Van Natta 1524 (2003); *Donald J. Murray*, 50 Van Natta 1132, 1133 (1998).

When a claimant signs a retainer agreement employing an attorney and giving that attorney authority to act for claimant, a dismissal order issued in response to that attorney's withdrawal of the hearing request is appropriate. *Laurie A. Trythall*, 56 Van Natta 2522 (2004); *Earley, Sr.*, 55 Van Natta at 1525; *Stephen L. Dargis*, 53 Van Natta 971 (2001).

Here, the retainer agreement between claimant and her then-attorney authorized that attorney to "sign [claimant's] name and in all other respects to act for [claimant] in connection with [claimant's] claim." Such a provision gave claimant's former attorney permission to act on claimant's behalf in all aspects of the claim, including the right to withdraw a hearing request. In the absence of evidence to the contrary, claimant's former attorney was fully authorized to withdraw the hearing request on claimant's behalf. *See Dorene F. Finch*, 60 Van Natta 2302, 2304 (2008) (the retainer agreement between the claimant and her then-attorney authorized that attorney to withdraw a hearing request).

Under these circumstances, we find no reason to alter the dismissal order. *See Earley, Sr.*, 55 Van Natta at 1525-26; *see also Dargis*, 53 Van Natta at 971.

ORDER

The ALJ's order dated June 18, 2008 is affirmed.

Entered at Salem, Oregon on November 21, 2008