

In the Matter of the Compensation of
CHARLOTTE L. LAMB, Claimant

WCB Case No. 13-00425

ORDER ON REVIEW

Glen J Lasken, Claimant Attorneys
Cummins Goodman et al, Defense Attorneys

Reviewing Panel: Members Curey, Lanning, and Somers.

The self-insured employer requests review of Administrative Law Judge (ALJ) Naugle's order that: (1) found that claimant had established good cause under ORS 656.319(1)(a) for her untimely filed hearing request from its denial of her occupational disease claim for a left shoulder condition; (2) set aside its denial; and (3) awarded a \$10,000 assessed attorney fee. On review, the issues are timeliness of claimant's request for hearing, compensability, and attorney fees.

We adopt and affirm the ALJ's order.

Claimant's attorney is entitled to an assessed fee for services on review.¹ ORS 656.382(2). After considering the factors set forth in OAR 438-015-0010(4) and applying them to this case, we find that a reasonable fee for claimant's attorney's services on review is \$8,000, payable by the employer. In reaching this conclusion, we have particularly considered the time devoted to the case (as represented by claimant's respondent's brief), the complexity of the issues, the value of the interest involved, and the risk that claimant's counsel might go uncompensated.

Finally, claimant is awarded reasonable expenses and costs for records, expert opinions, and witness fees, if any, incurred in prevailing over the denial, to be paid by the employer. *See* ORS 656.386(2); OAR 438-015-0019; *Gary E. Gettman*, 60 Van Natta 2862 (2008). The procedure for recovering this award, if any, is prescribed in OAR 438-015-0019(3).

ORDER

The ALJ's denial dated April 23, 2014 is affirmed. For services on review, claimant's attorney is awarded an assessed fee of \$8,000, payable by the employer. Claimant is awarded reasonable expenses and costs for records, expert opinions, and witness fees, if any, incurred in finally prevailing over the denial, to be paid by the employer.

Entered at Salem, Oregon on October 24, 2014

¹ Claimant's attorney is not entitled to a fee for services on review related to the attorney fee issue. *See Dotson v. Bohemia, Inc.*, 80 Or App 233, *rev den*, 302 Or 461 (1986).