
UTAH LABOR COMMISSION

DOUG DECKER,

Petitioner,

vs.

COSTCO,

Respondent.

**ORDER DENYING REQUEST
FOR RECONSIDERATION**

Case No. 05-0178

Doug Decker asks the Utah Labor Commission to reconsider her prior decision denying a portion of Doug Decker's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this matter pursuant to § 63G-4-302 of the Utah Administrative Procedures Act.

BACKGROUND AND ISSUES PRESENTED

Mr. Decker claims workers' compensation benefits from Costco for a work accident that occurred on December 23, 2003. Judge Lima held an evidentiary hearing wherein she accepted into evidence Costco's late-submitted medical evidence and then referred the medical issues of the case to a medical panel. Judge Lima adopted the panel's opinion and issued benefits accordingly.

Mr. Decker filed a motion for review of Judge Lima's decision, arguing that it was unfairly prejudiced by Judge Lima's acceptance of Costco's late-submitted medical evidence and requested the matter be remanded for further findings. The Commission reviewed Mr. Decker's motion for review and found there was good cause for admitting the evidence into the record and affirmed Judge Lima's decision.

In his motion for reconsideration, Mr. Decker argues that Judge Lima's decision specifically failed to perform any analysis as to whether there was good cause for admitting Costco's evidence, as required under Commission Rule R602-2-1(H)(5). Mr. Decker argues that Judge Lima's decision should be reversed or, in the alternative, that the matter should be remanded to Judge Lima for such specific findings on whether good cause was shown.

DISCUSSION

According to Commission Rule R602-2-1(H)(5), "Late filed medical records may or may not be admitted at the discretion of the administrative law judge by stipulation or for good cause shown." Mr. Decker argues that because Judge Lima's decision did not make a specific finding that good cause was shown before admitting Costco's evidence, then the matter must be remanded back

to Judge Lima for such findings. Mr. Decker cites another Commission decision, Berglund v. Napa Auto Parts et. al, Case No. 06-0007, for support. However, Berglund can be distinguished from the facts of this case.

In Berglund, the administrative law judge (ALJ) excluded late submitted medical records without making a determination as to whether there was “good cause” shown for admitting the records. On appeal from a motion for review, the Commission remanded the matter to the ALJ to make a good cause analysis—not, however, because the ALJ failed to make the “good cause” analysis, but rather because after reviewing the evidentiary record, the Commission found “insufficient information to support a reasoned decision one way or the other.” Thus, had the record provided sufficient information, the Commission could have made a “good cause” finding based on the evidence in the record, without remand to the ALJ.

Here, contrary to Berglund, the evidentiary record provided sufficient details for the Commission to determine that there was good cause for admitting Costco’s evidence without remanding the matter. The Commission conducted a review, as detailed in its decision, and concluded that good cause was shown for admitting the report and affirmed Judge Lima’s admission of the record. Thus, the Commission finds no reason to submit the matter to the ALJ for further findings and denies Mr. Decker’s motion for reconsideration.

ORDER

The Commission denies Mr. Decker’s motion for reconsideration. It is so ordered.

Dated this 30th day of June, 2009.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may appeal this Order to the Utah Court of Appeals by filing a Petition For Review with that Court within 30 days of the date of this Order.