01-0171 S.B. v. United Parcel Service Issued: 10/31/01

S. B. asks the Utah Labor Commission for interlocutory review of the Administrative Law Judge's preliminary orders regarding Mr. B.'s pending claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUE PRESENTED

Mr. B. contends the ALJ erred in allowing United Parcel Service and its insurance carrier, Liberty Mutual (referred to jointly as "UPS") additional time to file an answer to Mr. B.'s Application for Hearing. Mr. B. also contends the ALJ erred in ordering Mr. B. to cooperate with UPS's discovery requests.

DISCUSSION

In considering Mr. B.'s motion for interlocutory review, the Commission notes that such interlocutory review can have the effect of diminishing the ALJ's ability to organize and manage evidentiary hearings, disrupting the adjudicatory process, and delaying the resolution of claims. Consequently, the Commission will entertain interlocutory motions for review only if the potential advantage from deciding the issues presented will outweigh "the interruption of the hearing process and the other costs of

piecemeal review."[1] Interlocutory motions for review are appropriate only in unusual cases.

This case is still pending before the ALJ. There has been no determination on the merits. It is possible that Mr. B. will prevail on the merits of his claim and that any supposed "errors" on the part of the ALJ will either be corrected or rendered moot by further developments in the case.[2] But if Mr. B. remains dissatisfied, he retains the right to obtain agency and judicial review over all these issues when the case is completed. The Commission therefore declines to accept Mr. B.'s interlocutory motion for review. However, any party aggrieved by the ALJ's final decision may then exercise the appeal rights provided by law.

ORDER

Mr. B.'s interlocutory motion for review is dismissed. This matter is remanded to the ALJ to complete her adjudication of Mr. B.'s claim. It is so ordered.

Dated this 31st day of October, 2001.

R. Lee Ellertson

Utah Labor Commissioner

1. Charles H. Koch, Jr., Administrative Law and Practice (1985), §6.75

2. Without finally deciding the issue, it appears to the Commission that the ALJ's preliminary orders in this matter have been entirely proper.