

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

IDAHO DEPARTMENT OF)
ENVIRONMENTAL QUALITY,)
)
Employer,)
)
and)
)
STATE INSURANCE FUND,)
)
Surety,)
Petitioners,)
)
v.)
)
BARBARA JEWELL,)
)
Respondent.)
_____)

IC 2002-525645

**ORDER DISMISSING PETITION
FOR DECLARATORY RULING**

Filed April 30, 2012

On October 27, 2011, Petitioners, Idaho Department of Environmental Quality and the State Insurance Fund, filed a Petition for Entry of Declaratory Ruling pursuant to Rule 15, Judicial Rules of Practice and Procedure, JRP. Petitioners request a ruling on whether the Respondent, Barbara Jewell, is totally and permanently disabled pursuant to Idaho Code § 72-407(5) or the odd-lot theory. Respondent is *pro se* and did not file a response.

In the petition for declaratory ruling, Petitioners contend that an actual controversy exists over the applicability of Idaho Code §72-407(5) as Respondent suffered a spinal injury which has impacted her ability to use her legs, but medical evidence indicates that there is not complete paralysis.

In a workers' compensation proceeding a party may petition the Commission for a declaratory ruling on the construction, validity, or applicability of any workers' compensation statute, rule, regulation, or order. JRP 15(A). Further, Rule 15(F)(4)(f), JRP, provides that the Commission may decline to make a ruling when there is good cause why a declaratory ruling

should not be made. In the present case, Petitioners are requesting the Commission hold a hearing, review evidence, and issue a decision on Respondent's disability. Respondent alleges that she is totally and permanently disabled, and Petitioners aver that she is not. The issue is one of determining facts and then applying them to the law, not simply declaring a ruling on the applicability of a statute.

The issues set forth are not proper for a declaratory ruling, but for the standard adjudication process. Petitioners, Employer/Surety, are free to file a complaint and bring the requested issue to adjudication through the normal process. Petitioners will need to make some modification to the standard complaint form, but the Commission will be prepared for the uniqueness of this case. While additional modifications will need to be made by the parties as well as the Commission as this matter begins, the goal remains that at some point this case will proceed as a regular case through discovery, hearing, and the issuance of a final decision.

Accordingly, the Petition for Declaratory Ruling is DISMISSED.

IT IS SO ORDERED.

DATED this __30th____ day of April, 2012.

INDUSTRIAL COMMISSION

/s/
Thomas E. Limbaugh, Chairman

/s/
Thomas P. Baskin, Commissioner

R.D. Maynard, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of April, 2012, a true and correct copy of the foregoing **ORDER DISMISSING PETITION FOR DECLARATORY RULING** was served upon each of the following:

BARBARA JEWELL
3662 BURGUNDY DR
IDAHO FALLS ID 83404

PAUL AUGUSTINE
PO BOX 1521
BOISE ID 83701

/s/ _____