



STATE BOARD OF WORKERS' COMPENSATION
7 East Congress Street, Suite 601
Savannah, Georgia 31401
(912) 651-6223
www.sbwc.georgia.gov

At the Employee's request, an all issues hearing was held in Waycross, Ware County, Georgia on May 2, 2014 to determine whether the Employee had a work accident entitling her to payment of benefits.

At the call of the case, there was no appearance by anyone from the Employer, the Insurer, the Servicing Agent or any attorney representing the Employer/Insurer. A finding is made that the Employer was properly mailed a notice of hearing to its address of record. O.C.G.A. §34-9-201(i)(notice is required only to be sent, not received). In addition, a finding is made that the Insurer and its claims office were sent hearing notices by e-mail. The Board's record did not show that the notices--mailed or e-mailed--were returned as undeliverable. Therefore, a finding is made that the Employer and Insurer received proper notice. See American Mobile Imaging, Inc. v. Miles, 260 Ga. App. 877, 581 S.E.2d 396 (2003); Bailey-Lewis-Williams of Ga., Inc. v. Thomas, 103 Ga. App. 279, 119 S.E.2d 141 (1961); Ready Mix USA v. Ross, 314 Ga. App. 775, 726 S.E.2d 90 (2012). The record of hearing evidence closed as of the date of the hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon consideration of all admissible evidence and my observations of the Employee at the hearing, it is found and concluded as follows:

1. From the Employee's testimony that the Employer had at least seven employees, it is found that the Employer is subject to the Act. It is found that the Board has jurisdiction to determine the issues presented in this claim. It is found that the alleged accident occurred in Charlton County, making venue proper in contiguous Ware County. It is found from her testimony that the Employee was in the general employment of the Employer on the date of the accident. It is further found that the Employee's average weekly wage as of the date of accident was \$722.00 (\$19.00 an hour times the average of 36 to 40 hours per week).
2. The Employee testified her regular duties as a licensed practical nurse were to assist in the care and moving of the elderly or infirm patients. From the Employee's credible testimony, I find that on November 29, 2013, the Employee's right upper shoulder was injured after having worked all day at pulling and lifting. I find that on that same day, the Employee notified her supervisor of having had a muscle strain while at work. The Employee testified that the supervisor asked her if she had completed an incident report on the injury. From this, I find that the Employer received timely notice of this alleged on-the-job injury. O.C.G.A. §34-9-80; Schwartz v. Greenbaum, 236 Ga. 476, 224 S.E.2d 38 (1976).
3. From all of the evidence, it is found that the Employee suffered an injury in an accident arising out of and in the course of her employment on November 29, 2013. It is concluded that the Employer/Insurer are liable to pay the Employee benefits as the result of this injury. O.C.G.A. §34-9-1(4).

4. I find that because of her injury, the Employee stopped working for the Employer and became disabled after November 29, 2013. Her testimony on this was credible and was, of course, not contradicted. I find that the Employee was disabled because of her injury through January 18, 2014, when, as she testified, she returned to work at her regular job. (She has remained working through the present.) It is therefore concluded that the Employer is liable to pay the Employee temporary total disability benefits from November 29, 2013 through January 17, 2014. O.C.G.A. §34-9-261.

5. It is found that as a result of her compensable injury, the Employee has incurred medical expenses reasonably required to effect a cure or give relief. The Employee did not bring copies of those bills, so a direct award cannot be made on her medical expenses. However, the Employer/Insurer shall provide this medical treatment and any other for a condition which was caused by an injury arising out of and in the course of the Employee's employment. O.C.G.A. §34-9-200(a).

AWARD

WHEREFORE, based on the above findings and conclusions, the claim of the Employee for benefits the result of an injury occurring on November 29, 2013 is granted.

The Employer/Insurer are directed to pay the Employee compensation at the rate of \$525.00 per week for the period of November 29, 2013 through January 17, 2014

The Employer/Insurer are further directed to file a Form WC-2 with the State Board of Workers' Compensation at the time that benefits are commenced pursuant to this award.

The Employer/Insurer are directed to pay the medical expenses as found above and any other medical expenses which the parties agree are reasonable in amount and reasonably required to bring about a cure or give relief, subject to a hearing at the request of any party to resolve a dispute. This paragraph alone is interlocutory in nature.

IT IS SO ORDERED, this the 05th day of May, 2014.

STATE BOARD OF WORKERS' COMPENSATION

This order is electronically signed and approved.

Jerome J. Stenger

ADMINISTRATIVE LAW JUDGE