

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

2011 MTWCC 21

WCC No. 2010-2474

CLARENCE GRANDE

Petitioner

vs.

MONTANA STATE FUND

Respondent/Insurer.

ORDER DENYING PETITIONER'S MOTION TO AMEND FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND JUDGMENT

Summary: Petitioner moves the Court to amend its Findings of Fact, Conclusions of Law, and Judgment to reflect entitlement to medical benefits for treatment of Petitioner's rheumatoid arthritis between August 2007 and August 2009.

Held: Petitioner's motion is denied. The parties asked the Court to make a general determination regarding whether Petitioner suffered from an occupational disease arising out of and in the course and scope of his employment and, if so, whether he was entitled to payment of temporary total disability benefits and reasonable medical benefits related to the treatment of his occupational disease. The Court resolved these general issues in the affirmative and entered judgment for Petitioner. Petitioner did not raise the specific issue of whether he would be entitled to medical benefits if his job duties temporarily aggravated his rheumatoid arthritis.

Topics:

Constitutions, Statutes, Regulations, and Rules: Administrative Rules of Montana: 24.5.344. Where the Court's decision addressed only the generally-drafted disputed issues, it denied Petitioner's request to amend its decision to reflect that Petitioner was entitled to medical benefits for the treatment of his rheumatoid arthritis during a certain time period. Petitioner never raised the specific issue of whether his job duties aggravated his rheumatoid arthritis nor did he prove that his work was the major contributing cause of the condition.

Benefits: Medical Benefits: Liability. Petitioner's treating physician opined that Petitioner's job duties only temporarily aggravated his rheumatoid arthritis and did not offer an opinion as to whether Petitioner's work was the major contributing cause of his rheumatoid arthritis. Where the parties set forth no argument as to whether Petitioner would be entitled to medical benefits for his rheumatoid arthritis condition during the time period in which his job duties temporarily aggravated it, the Court concluded that Petitioner did not establish an entitlement to medical benefits for the treatment of the temporary aggravation of his rheumatoid arthritis.

¶ 1 Petitioner Clarence Grande moves the Court pursuant to ARM 24.5.344 to amend its Findings of Fact, Conclusions of Law, and Judgment issued in his case.¹ Specifically, Grande asks the Court to amend ¶ 40 of its decision, which states:

Under § 39-71-704(1)(a), MCA, an injured worker is entitled to certain reasonable medical benefits for his work-related injury. Since I have found that Grande's employment is the major contributing cause of his current condition, Grande is entitled to reasonable medical benefits related to the treatment of his osteoarthritis.²

¶ 2 In his motion, Grande requests that "the Court amend ¶ 40 of the Findings of Fact, Conclusions of Law and Judgment to reflect entitlement to medical benefits for treatment of the rheumatoid arthritis between August of 2007 and August of 2009."³

¶ 3 Respondent Montana State Fund (State Fund) objects to Grande's motion, arguing that this Court correctly chose not to impose liability for the treatment of Grande's rheumatoid arthritis, and further arguing that it should not be liable for Grande's medical treatment until July 2009 because Grande "did not associate his arthritis with his work" until then.⁴

¹ Petition for Amendment to Findings of Fact and Conclusions of Law (Opening Brief), Docket Item No. 26.

² *Grande v. Montana State Fund*, 2011 MTWCC 15.

³ Opening Brief at 2.

⁴ Montana State Fund's Response to Petitioner's Petition for Amendment to Findings of Fact and Conclusions of Law, Docket Item No. 28.

¶ 4 In *Grande*, the parties asked the Court to resolve three issues. Pertinent to Grande's present motion are Issues One and Two. Issue One asked the Court to determine whether Grande suffered from an occupational disease arising out of and in the course and scope of his employment with City Service Valcon.⁵ Issue Two asked the Court to determine whether Grande was entitled to payment of temporary total disability benefits and reasonable medical benefits related to the treatment of his occupational disease.⁶

¶ 5 Usually, disputed issues are set forth in a final pretrial order which is signed by all parties.⁷ Upon approval by the Court, the pretrial order supersedes all other pleadings and governs the trial proceedings.⁸ In the present case, this matter was submitted for decision on briefs with stipulated facts pursuant to the parties' agreement.⁹

¶ 6 Grande and State Fund filed simultaneous opening briefs. In its opening brief, State Fund alleged: "The primary issue before the Court is whether Grande suffered a compensable occupational disease as a result of his employment with City Service Valcon."¹⁰ Grande set forth three issues for determination, including the issues set forth at ¶ 4 above as Issues One and Two.¹¹ The Court considered the issues set forth by the parties.¹²

¶ 7 As framed by the issues set forth by Grande, the Court was asked to make a general determination regarding whether Grande suffered from an occupational disease arising out of and in the course and scope of his employment with City Service Valcon and, if so, whether he was entitled to payment of temporary total disability benefits and reasonable medical benefits related to the treatment of his occupational disease. For the reasons discussed at length in the Findings of Fact, Conclusions of Law, and

⁵ *Grande*, ¶ 4a.

⁶ *Grande*, ¶ 4b.

⁷ ARM 24.5.318(5).

⁸ ARM 24.5.318(6).

⁹ See Order Setting Briefing Schedule, Docket Item No. 15.

¹⁰ Montana State Fund's Opening Brief, Docket Item No. 19, at 2.

¹¹ Petitioner's Brief in Support of his Claim for Occupational Disease Benefits, Docket Item No. 20, at 1.

¹² *Grande*, 2011 MTWCC 15, ¶ 4.

Judgment, I answered both questions in the affirmative and entered judgment accordingly.¹³

¶ 8 Regarding medical benefits specific to the treatment of the temporary aggravation of Grande's rheumatoid arthritis, the exclusion of Grande's rheumatoid arthritis from ¶ 40 was not an inadvertent oversight. As I noted in the Findings of Fact, Dr. Van Belois opined that Grande's job duties only temporarily aggravated his rheumatoid arthritis. She could not offer an opinion as to whether Grande's work was the major contributing cause of his rheumatoid arthritis condition.¹⁴ The parties did not set forth any issue or argument regarding whether Grande would be entitled to medical benefits for his rheumatoid arthritis during the time period in which his job duties may have temporarily aggravated it. As I previously noted in *Hopkins v. UEF*, ARM 24.5.344(1) provides that this Court will issue findings of fact, conclusions of law, and judgment setting forth the determination of the disputed issues.¹⁵ Grande met his burden of proof as to the general questions framed in Issues One and Two. He did not establish his entitlement to medical benefits specific to the treatment of the temporary aggravation of his rheumatoid arthritis.

ORDER

¶ 9 Petitioner's motion to amend Findings of Fact, Conclusions of Law, and Judgment is **DENIED**.

DATED in Helena, Montana, this 22nd day of July, 2011.

(SEAL)

/s/ JAMES JEREMIAH SHEA
JUDGE

c: Laurie Wallace
Kevin Braun
Submitted: July 1, 2011

¹³ *Id.*, ¶¶ 42, 43.

¹⁴ *Id.*, ¶ 11.

¹⁵ *Hopkins v. Uninsured Employers' Fund*, 2010 MTWCC 12, ¶ 3.