

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGE OF COMPENSATION CLAIMS
MELBOURNE DISTRICT
HONORABLE PAUL T. TERLIZZESE**

EMPLOYEE:

Evelyn Mobius
1525 Fiske Blvd., #124
Rockledge, FL 32955

EMPLOYER:

Brevard County Board of Commissioners
2725 Judge Fran Jamieson Way
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Viera, FL 32940

CARRIER:

Preferred Governmental Claim Solutions
P.O. Box 958456
Lake Mary, FL 32795-8456

ATTORNEY FOR EMPLOYEE:

Dale Albright, Esquire
The Coye Law Firm
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Orlando, FL 32804

ATTORNEY FOR EMPLOYER/CARRIER:

Derrick E. Cox, Esquire
Hurley, Rogner, Miller, Cox, Waranch &
Westcott, P.A.
1560 Orange Avenue, Suite 500
Winter Park, FL 32789

OJCC CASE NO.: 09-025252PTT

D/A: 1/29/2009

**ABBREVIATED FINAL ORDER AWARDING TAXABLE COSTS TO THE
EMPLOYER/CARRIER AND GRANTING A PARTIAL DISMISSAL OF THE
PETITION FOR BENEFITS FILED ON FEBRUARY 18, 2010**

THIS MATTER came on for an Evidentiary Hearing before the undersigned Judge of Compensation Claims pursuant to a Motion to Tax Costs and Motion to Dismiss filed by the Employer/Carrier on March 1, 2010. The Evidentiary Hearing was held and concluded on May 21, 2010. Present and representing the employee was Dale Albright, Esquire. Present and representing the Employer/Carrier was Derrick E. Cox, Esquire. At the conclusion of the hearing, I announced verbal findings of fact and conclusions of law, which are incorporated herein by direct reference.

In making my findings of fact and conclusions of law in this claim, I have carefully considered and weighed all of the evidence that was presented to me, including

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Employer/Carrier's composite Exhibits 1 and 2. I have observed the candor and demeanor of the witness, the sworn testimony of Attorney Derrick Cox, and resolved all of the conflicts in the testimony and evidence. In writing this Order, I have attempted to distill the salient issues, together with findings and conclusions necessary to their resolution. Even though I have not attempted to summarize the entirety of each witness or exhibit, nor to state non-essential facts, this does not mean that I have failed to consider all of the evidence. After careful consideration of all of the testimony and documentary evidence presented, and after having resolved any conflicts therein, I hereby find as follows:

1. The stipulations of the parties are factual and incorporated by reference as if set out at length herein.

2. Based on the evidence submitted, and the sworn testimony and cost affidavit of Attorney Derrick Cox, I hereby award \$481.97 in taxable costs to the Employer/Carrier. Specifically, I award the court reporter bill for the Claimant's deposition in the amount of \$398.45, the copies of records from Dr. Lizzy Thomas in the amount of \$40.50, and the copies of records from Wuesthoff Medical Center in the amount of \$43.02. These costs were expended in defense of the September 30, 2009 and December 21, 2009 Petitions for Benefits, which were voluntarily dismissed on the eve of the February 11, 2010 Final Hearing.

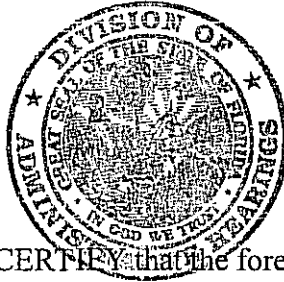
3. I also partially grant the Employer/Carrier's Motion to Dismiss the Petition for Benefits filed on February 18, 2010. Specifically, I grant the Employer/Carrier's Motion to Dismiss the portion of the Petition for Benefits which seeks full-pay status pursuant to Florida Statutes §440.15(11), and reimbursement of sick, annual or other leave used, on the grounds that I do not have jurisdiction to award full-pay status to the Claimant under Florida Statutes

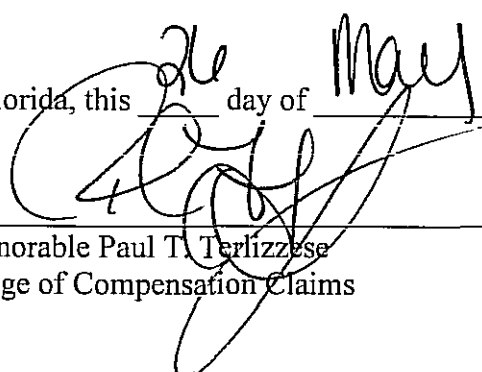
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§440.15(11), or to order the employer to reimburse sick or annual leave. However, I deny the Employer/Carrier's Motion to Dismiss the other issues contained in the Petition for Benefits. Thus, the remaining issues in the February 18, 2010 Petition for Benefits continue to be set for the July 12, 2010 Final Hearing.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Claimant shall reimburse the Employer/Carrier taxable Court Costs in the amount of \$481.97, and that certain specified issues of the February 18, 2010 Petition for Benefits are dismissed.

DONE and ORDERED in Melbourne, Florida, this 26 day of May, 2010.




Honorable Paul T. Terlizzese
Judge of Compensation Claims

THIS IS TO CERTIFY that the foregoing Order was entered on this 26th day of May, 2010, and that a copy thereof was sent by electronic mail to Counsel.


Judicial Assistant