

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS
OFFICE OF THE JUDGES OF COMPENSATION CLAIMS
MIAMI DISTRICT**

**Andre Barrett,
Claimant,**

**OJCC No.: 17-003966SMS
D/A: 2/23/15
JCC: Sylvia Medina-Shore**

v.

**Randstad Work Solutions and
ESIS WC Claims**

COMPENSATION ORDER

THIS CAUSE came before the undersigned Judge of Compensation Claims for a final hearing on 10/20/17 regarding petition for benefits (PFB) filed 2/16/17. Mr. Barrett, the claimant appeared pro se (without an attorney) at the final hearing. E/C is represented by Kate Albin, Esquire.

Procedural History and Documentary Exhibit-

1. Claimant was previously represented by Ivan P. Morales, Esquire.
2. Mr. Morales filed a motion to withdraw from representing the claimant on 6/14/17.
3. On 6/30/17, a hearing was held on the motion to withdraw wherein the undersigned explained to claimant the importance of seeking and retaining a new attorney. In order to allow claimant sufficient time to search for another attorney, the 7/26/17 final hearing was continued to 9/11/17.
4. Due to Hurricane Irma and its effects, the Miami OJCC office was closed from 9/7/17 to 9/22/17. Accordingly, the 9/11/17 final hearing was continued to 10/20/17.

5. On 9/26/17, a notice was provided to the parties of the 10/20/17 final hearing.
6. The claimant appeared to the 10/20/17 final hearing, pro se, indicating he contacted many attorneys without any success. E/C objected to any further continuances of the final hearing as claimant had 4 months to search and retain an attorney.
7. The 10/20/17 final hearing was held and claimant provided testimony.

Documentary Exhibit:

The only documentary exhibit admitted into evidence is the pre-trial stipulation filed 6/15/17 (DE#18). Claimant attempted to admit into evidence several documentary exhibits. However, as proper evidentiary objections were made by E/C and granted, the documentary exhibits were not admitted into evidence and not considered by the undersigned. As explained to the claimant, the Florida Evidence Code applies to workers' compensation proceedings. See, Alford v. G. Pierce Woods Memorial Hospital, 621 So.2d 1380, 1382 (Fla. 1st DCA 1993).

Claims:

1. Authorize a primary care physician for evaluation and treatment.
2. Attorney's fees and costs.

Defenses:

1. The major contributing cause of claimant's symptoms and/or need for treatment, if any, is not the industrial accident.
2. There is no medical evidence of an injury.
3. There is no evidence that medical care is necessary.
4. A PCP is not medically necessary.

5. Attorney's fees and costs are not due or owing.

Findings of Facts and Conclusions of Law:

1. Claimant testified in person at the final hearing. He loaded and unloaded boxes from a truck and stocked its merchandise on the shelves of the employer's warehouse.
2. At approximately 2:00 a.m. of 2/24/15, claimant felt pain in different parts of his body: back, legs, arms, and feet. However, his pain was more significant in his feet. Claimant finished his shift and went to the hospital.
3. At the hospital, claimant underwent some tests and was referred out to a podiatrist.
4. Claimant reported his work related feet pain to the employer on 3/5/15. He attempted to return to work after receiving treatment at JMH. However, claimant was informed he had been terminated as he failed to contact or report to work for 3 consecutive days.
5. Claimant sought medical treatment with various doctors and hospitals, including but not limited to, Dr. Acedo, Jackson Memorial Hospital, Palmetto Hospital, Dr. Millheiser, and Dr. Cala.
6. Since the accident, claimant worked for several employers on a part-time basis: Walmart, stocking shelves and for a restaurant, making salads. Currently, he cooks fried chicken for a restaurant.
7. Claimant desires to see a doctor authorized by E/C as his feet are still numb. E/C has not authorized any medical care.

8. Pursuant to section F.S. 440.09(1), the employer shall pay compensation or furnish benefits only if the employee suffers an accidental injury arising out of work performed in the course and scope of the employment. The injury, its occupational cause, and any resulting manifestations or disability must be established to a reasonable degree of medical certainty and by objective medical findings. Therefore, claimant has the burden of proof in establishing his injuries arise out of work performed in the course and scope of the employment and that he is entitled to the medical treatment he is seeking.
9. In accordance with section 440.09(1), it is a well settled proposition of law that where a claimant's medical condition or injury is not readily observable, medical testimony or evidence must be provided to prove a causal relationship between the employment and claimant's medical condition. Thus, lay testimony alone is insufficient to support a finding of causation where medical conditions are not readily observable. See, Brasington Cadillac-Oldsmobile and Claims Center v. Daniel Clark Martin, 641 So.2d 442 (Fla. 1st DCA 1996).
10. The claimant failed to present admissible medical evidence, in any form, to prove existence of an injury by objective medical findings and causal relationship between said injuries to his work. No medical composite has been filed pursuant to F.S. 440.29(1), nor have any medical depositions been taken. E/C has also not entered any medical evidence for the undersigned's consideration.

WHEREFORE, IT IS ORDERED:

1. Claim for authorization of PCP is denied.
2. The 9/30/16 PFB, excluding the claim for fees and costs, is dismissed.
3. In the event either party wishes to appeal the instant Compensation Order, a Notice of Appeal must be filed by the 30th day from the date of the certificate of service of the instant order with a \$300.00 check made payable to the First District Court of Appeals or in the alternative, file a verified petition of insolvency for approval as provided in s. 57.081(1) with the Notice of Appeal. Otherwise, the instant order becomes final. The parties may refer to F.S. 440.25(5).

**DONE AND E-MAILED TO THE PARTIES AND THE ATTORNEYS OF
RECORD THIS 23rd DAY OF OCTOBER OF 2017. THE ATTORNEYS
SHALL PROVIDE A COPY OF THE INSTANT COMPENSATION ORDER
TO THEIR RESPECTIVE CLIENTS UPON RECEIPT OF IT.**



**SYLVIA MEDINA-SHORE
Judge of Compensation Claims**