
UTAH LABOR COMMISSION

JOSEPHINE CASSELLO,

Petitioner,

vs.

FRED MEYER,

Respondent.

**ORDER DENYING
MOTION FOR REVIEW**

Case No. 07-0095

Josephine Cassello asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's determination of Josephine Cassello's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated. § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

In her motion for review, Ms. Cassello suggests that all of the evidence regarding her injuries was not considered. However, before considering the issues raised in Ms. Cassello's motion for review, the Labor Commission must first determine whether the motion for review was filed within the 30 day time limit imposed by the Utah Administrative Procedures Act ("UAPA"; Title 63G, Chapter 4, Utah Code Annotated).

FINDINGS OF FACT

Judge La Jeunesse issued his decision in this matter on February 7, 2008. That same day, a copy of the ALJ's decision was mailed to Ms. Cassello at her correct mailing address. On May 9, 2008, the Labor Commission received Ms. Cassello's motion for review.

DISCUSSION AND CONCLUSIONS OF LAW

Section 63G-4-301 of UAPA allows a party dissatisfied with an ALJ's decision 30 days in which to file a motion for review with the Labor Commission. A motion for review is not "filed" until it is actually received by the Labor Commission.

In this case, Judge La Jeunesse's decision was issued on February 7, 2008, but Ms. Cassello's motion for review was not received until 92 days later, on May 9, 2008. Consequently, Ms. Cassello failed to file her motion for review within the 30 day period allowed by law and the Commission has no jurisdiction to consider this matter further.

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ORDER

The Labor Commission dismisses Ms. Cassello's motion for review as untimely. The prior decision of the ALJ remains in effect. It is so ordered.

Dated this 26th day of June, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.

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