

File Number:
HR12-D-H

RECEIVED NOV 05 2012

U.S. DEPARTMENT OF LABOR

OCT 25 2012

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 50
LONDON, KY 40742-8300
Phone: (202) 693-0045

Date of Injury:
Employee:

Dear Mr. :

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A hearing was held on 10/03/2012. At the hearing it was determined that as a result of your work injury you were unable to work the limited duty job that you accepted on January 4, 2012 because of an increase in disability for the period from February 1, 2012 through March 5, 2012. Accordingly, it was determined in the attached Summary Decision as indicated at page 17, line 21-25 and page 18, line 1-5 that the decisions of the District Office dated April 9, 2012 and May 23, 2012 should be reversed and compensation paid for any wage loss for the period from February 1, 2012 through March 5, 2012.

Your case file has been returned to the Jacksonville District Office. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300

Sincerely,



Carol E. Adams
Hearing Representative

PAUL H FELSER, ATTORNEY
FELSER LAW FIRM, P C
P O BOX 10267
SAVANNAH, GA 31412

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

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UNITED STATES DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMPENSATION PROGRAMS
FEDERAL EMPLOYEES' COMPENSATION ACT

File No.

Claimant:

Representative: Paul H. Felser
P.O. Box 10267
Savannah, GA 31412

Employed by:

TRANSCRIPT OF PROCEEDINGS

HEARING REP:

DATE: October 3, 2012
PLACE: Telephonic
Washington, D.C.
TIME: 2:58 p.m.
REPORTED BY:

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INDEX TO WITNESSES

Hearing Rep. Attorney

[None]

EXHIBITS

MARKED ADMITTED

[None]

P R O C E E D I N G S

HEARING REPRESENTATIVE:

Today is October 3, 2012, and the time is 2:58 p.m. This is a hearing being held in connection with the claim of _____ for benefits under the Federal Employees' Compensation Act. The issue for determination is whether the Claimant has established he is disabled from working modified duty on -- from February 1, 2012 to February 10, 2012 and from February 13 to February 24, 2012, and from February 27 to March 5, 2012, and from April 18, 2012 through June 1, 2012. Just prior to this hearing, a detailed conversation occurred between the Claimant's attorney and myself. His attorney is Mr. Paul Felser, and we discussed the possibility of a summary Decision. And I indicated to him that I believed there was sufficient evidence to support that the Claimant was no longer able to do his light duty job for those periods that I just cited. Mr. Felser, do you agree that we had a discussion before this hearing, and are you agreeable to receiving a Decision

York Stenographic Services, Inc.

34 North George St., York, PA 17401 - (717) 854-0077

1 at this hearing in place of getting a Decision
2 -- hearing?

3 MR. FELSER:

4 Yes, ma'am. As a matter of fact, I will, on
5 the record, state in my place that the
6 September 25, 2012 denial, which you are
7 indicating that you are willing and able to
8 incorporate in your summary Decision, I want
9 to make it clear on the record, and state in
10 my place that, on behalf of the Claimant, we
11 are appealing that September 25, 2012
12 Decision. You've asked me to make that note
13 on the record, that you would consider my
14 verbal statement on the record as official
15 indication of the institution of an appeal,
16 and a request for an oral hearing on that
17 particular Decision. And I agree, and have no
18 objection to you hearing the appeal,
19 consolidating this appeal request with the
20 pending appeals that you are hearing today,
21 and addressing everything together for
22 purposes of judicial economy. And I have no
23 objection to this appeal going forward with
24 the already pending appeals.

25 HEARING REPRESENTATIVE:

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1 styloid tenosynovitis. The Claimant lost time
2 from work after the injury, and the Claimant
3 was released by the physician to work light
4 duty, with no use of the left arm or hand. On
5 December 25, 2011 the employer offered the
6 Claimant light duty in a modified position in
7 a maintenance mechanic position with no use of
8 the left arm. The job entailed conducting
9 building checks of the lights, operations and
10 security, performing administrative work in
11 the office when needed, and conducting annual
12 inventory, with no use of the left arm and
13 hand. On January 4, 2012 the Claimant
14 accepted the job offer. The Claimant again
15 stopped work on February 1, 2012 and filed
16 claims for compensation from February 1, 2012
17 to February 10, 2012, and from February 13,
18 2012 to February 24, 2012, and from February
19 27, 2012 to March 5, 2012. Now, March 6, 2012
20 the employer offered the Claimant a sedentary
21 job, sitting behind a desk and answering a
22 telephone with his right hand. On March 8 the
23 Claimant accepted the job offer. By Decision
24 dated March 2, the Office denied compensation
25 for periods February 1 to February 10, and

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1 from February 13 to February 24, 2012. By
2 Decision dated May 23 the Office denied
3 compensation from February 13, 2012 to
4 February -- 2012, and February 27, 2012 to
5 March 5, 2012. , let's go off the record
6 for a moment.

7 ***

8 [Off the record]

9 [On the record]

10 ***

11 HEARING REPRESENTATIVE:

12 We went off the record because someone else
13 had -- is attending the hearing from the
14 employing agency, a . I think that
15 was , and she is from the employer.
16 I have informed her that I am in the process
17 of doing a summary Decision, and reversing the
18 Decision for the periods I previously stated.
19 I'm going to continue with my summary
20 Decision. I'm going to start at -- by
21 Decision dated May 23, 2012 the Office denied
22 compensation from February 13, 2012 to
23 February 24, 2012, and from February 27, 2012
24 to March 5, 2012. By Decision dated September
25 25, 2012 the Office denied compensation for

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