

STATE OF MAINE
WORKERS' COMPENSATION BOARD

DECISION NO.: WCB-213(1)-04-01

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WORKERS' COMPENSATION BOARD
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Mail Date: August 24, 2004
WCB File No.: 93-010373

DOI: 07/14/1993

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within 20 days of receipt of this decision, and by filing a petition seeking appellate review with the Law Court within 20 days thereafter. *See* 39-A M.R.S.A. § 322.

Pursuant to Board Rule Chapter 12 Section 19, all evidence and transcripts in this matter may be destroyed after 60 days unless (1) we receive written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed. The 60 days will not begin to run until all post-decree motions have been decided or otherwise disposed.

FREDERICK L. STARBIRD
(Employee)
v.
CITY OF PORTLAND
(Employer)
and
MAINE MUNICIPAL ASSOCIATION
(Insurer)

BEFORE: HILTZ, KIRKPATRICK, KOOCHER, DIRECTORS AND DIONNE, CHAIR¹

Pending before the Board is a Petition for Extension of Benefits Pursuant to 39-A M.R.S.A. § 213(1) filed by the employee and dated June 6, 2001 and March 26, 2002, concerning a July 14, 1993 date of injury.

Mr. Starbird has received at least 364 weeks of incapacity benefits. He is seeking an extension of his entitlement to incapacity benefits because of extreme financial hardship due to inability to return to gainful employment, pursuant to 39-A M.R.S.A. § 213(1). An evidentiary

¹ Directors Mingo and Cooney were present at the first evidentiary hearing on May 18, 2004, but were not present for the closing testimony and arguments on July 20, 2004 and did not participate in the public deliberations and vote. Director Monfiletto did not participate in this matter.

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hearing was held on May 18 and July 20, 2004 and closing arguments and public deliberations were held on July 20, 2004.

As evidence, the Board considered the testimony of Mr. Starbird taken on May 18 and July 20, 2004, the testimony of Christopher Temple and Ann Ouellette taken on May 18, 2004, Employee Exhibits #1 and 3; Employer's Exhibits #1-16, and a Stipulation of Medical Index.

DECISION AND ORDER

1. The employee has received at least 364 weeks of lost time benefits due to incapacity that resulted from a back injury that he suffered while employed by the City of Portland on July 14, 1993.
2. Mr. Starbird is 44 years old. He last worked for the City of Portland in 1996 and was last employed in 1998, on a part-time basis, at New England Power Wash.
3. The City of Portland, through the Maine Municipal Association, has provided the employee with vocational rehabilitation efforts.
4. Mr. Starbird is currently receiving Social Security disability benefits of approximately \$972.00 each month.

WHEREFORE, on a vote of 2-2, Mr. Starbird's Petition for Extension of Benefits is DENIED.

SO ORDERED.

WORKERS' COMPENSATION BOARD

VOTING YES:

Date

Rodney B. Hiltz, Director

Date

Joan R. Kirkpatrick, Director

VOTING NO:

Date

Gary M. Koocher, Director

Date

Paul R. Dionne, Chair