

STATE OF MAINE
WORKERS' COMPENSATION BOARD

DOCKET NO.: WCB-213-24-02 (EOB)
DECISION OF BOARD OF DIRECTORS

For the Employee:

David Clark
1 Free Street
Machias, Maine 04654

For the Employer/Insurer

Thomas Quartararo, Esq.
Robinson Kriger & McCallum
12 Portland Pier
Portland, ME 04101

RE: *David Clark v. TWC Administration LLC*
§213 Petition For Extension of Benefits
Date of Injury: 10/30/2013

Issuance Date: MAY 21, 2025

Mail Date: MAY 21, 2025

DAVID CLARK
(Employee)

v.

TWC ADMINISTRATION LLC
(Employer)
and
ESIS, INC.
(Insurer)

BEFORE: EXECUTIVE DIRECTOR ROHDE, CHAIR; AND DIRECTORS BURROUGHS,
DEWOLFE, GAUDETTE AND GENDREAU

On October 30, 2013, David Clark sustained a left knee injury while working for Time Warner Cable for which he received partial workers' compensation benefits pursuant to board decrees. The employer petitioned to terminate benefits. Administrative Law Judge ("ALJ") Smith determined that, pursuant to 39-A MRSA §213(1)(B), payments should cease on February 24, 2024, because the 520-week limit for partial benefits had passed.

Mr. Clark filed a Petition for Extension of Benefits Due To Extreme Financial Hardship pursuant to §213(1)(B) ("hardship petition"). Through this petition, Mr. Clark seeks extended benefits beyond the 520-week limit because he suffers extreme financial hardship due to his inability to return to gainful employment.

Mr. Clark recently filed a Petition for Award of Compensation on account of an alleged November 27, 2014, left knee injury. This will be heard and decided by the ALJ in Caribou. The employer filed a motion to dismiss or to continue the hardship petition. At a May 13, 2025, hearing in front of the Board

MAILED & EMAILED TO DAVID CLARK & TOM QUARTARARO, ESQ. 5-21-25

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of Directors at the Workers' Compensation Board's Bangor Regional Office, Mr. Clark and Attorney Quartararo presented arguments for and against the employer's motion.

At the hearing, Attorney Quartararo pointed out that the employee's two petitions are set to be decided by different tribunals but within the same agency, which could result in a double recovery. If the directors award benefits for the hardship petition, then §213(1)(B) would allow the insurer to petition for review of the decision two years after the order is issued. If the ALJ was to issue a decree ordering benefit payments for the November 27, 2014, injury within the two-year window, then the employer would not be able to petition the directors for a reduction until the expiration of the two-year period. The employee countered that the directors could insert a sunset clause to nullify their decision upon the issuance of a benefit award by the ALJ.

Attorney Quartararo also argued that decisions from the two tribunals could contain inconsistent findings and conclusions that would conflict with issues material to both cases. This raises questions about how one order could impact the other on such issues as the nature and extent of incapacity, work search, and benefit level. Also, if the directors were to stay proceedings on the extraordinary hardship petition until final judgement on the petition for award, then further delays would result, possibly after time-consuming appeals. The parties were given a full opportunity to outline their positions.

At the conclusion of the parties' arguments, the directors weighed the merits of the employer's motion to dismiss or continue the hardship petition. Delays would result if proceedings on the hardship petition were stayed pending the outcome of the companion litigation. Going forward with litigation on the hardship petition might impact the claim for the November 27, 2014, injury. Since WCB Rule ch. 2 §5 (2) requires the filing of a hardship petition within 30 days of an ALJ's decision terminating benefits, dismissing Mr. Clark's hardship petition could have the unintended consequence of barring Mr. Clark from refiling the hardship petition because that refiling would be outside of the 30-day window.

Given the uncertainty of potential outcomes, a motion was made to delegate authority to decide this case to the administrative law judge so that it can be consolidated with Mr. Clark's petition for award.

MOTION PRESENTED by Director Gaudette:

Move to refer Mr. Clark's hardship petition to the same administrative law judge who will decide Mr. Clark's petition for award for the alleged November 27, 2014, injury as allowed by 39-A MRSA §213 (1) (B).

MOTION SECONDED by Director Burroughs

VOTE by directors: 5-0

MOTION PASSED

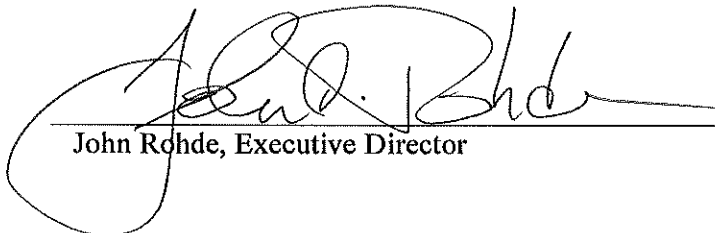
CONCLUSIONS OF LAW

WHEREFORE, as allowed by 39-A MRSA §213 (1) (B), the authority to hear and decide Mr. Clark's hardship petition is hereby delegated to the administrative law judge who is hearing Mr. Clark's petition for award on the alleged November 27, 2014, injury.

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WORKERS' COMPENSATION BOARD

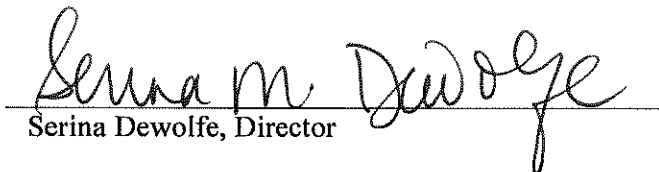
5/19/25
Date


John Rohde, Executive Director

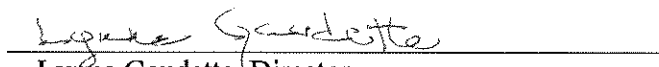
5/20/25
Date


Glenn Burroughs, Director

5/20/25
Date


Serina Dewolf, Director

5/19/25
Date


Lynne Gaudette, Director

5/20/25
Date


Paul Gendreau, Director