

STATE OF MAINE  
WORKERS' COMPENSATION BOARD

DECISION NO.: WCB-213-03-02

Frederick L. Starbird, *pro se*  
PO Box 211  
Hollis Center ME 04042-0211

Frank W. DeLong, III, Esq.  
THOMPSON & BOWIE  
PO Box 4630  
Portland ME 04112-4630

Mail Date: Nov 10 2003  
WCB File No.: 93-0103073

DOI: 07/14/1993

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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.

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

BEFORE: GAUVIN, HILTZ, KIRKPATRICK, KOOCHER, MINGO AND MONFILETTO, DIRECTORS

Pending before the Board is the Employer/Insurer's Motion to Dismiss the Employee's Petition for Extension of Benefits Pursuant to 39-A M.R.S.A. Section 213(1). A hearing was held and argument on the motion considered on October 21, 2003.

DECISION ON THE MOTION

1. Although the employee's Petition was apparently filed within the 30-day period mandated by Chapter 2, Section 5(2) of the Board's rules, it was not served by certified mail, return receipt requested as that rule requires.

2. Mr. Starbird has not yet sent to the employer/insurer the responsive information required by Chapter 2, Section 5(4) of the Board's rules.
3. Because Mr. Starbird is no longer represented by counsel in this matter, dismissal of his Petition would be an unduly harsh remedy for his failure to adhere to the procedural requirements of the rules.

WHEREFORE, on a vote of 6-0, the Employer/Insurer's Motion to Dismiss the Employee's Petition for Extension of Benefits is DENIED. The matter will be scheduled for hearing.

SO ORDERED.

WORKERS' COMPENSATION BOARD

VOTING NO:

\_\_\_\_\_  
Date

\_\_\_\_\_  
David M. Gauvin, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Rodney B. Hiltz, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joan R. Kirkpatrick, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gary M. Koocher, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
James A. Mingo, Director

\_\_\_\_\_  
Date

\_\_\_\_\_  
Anthony Monfiletto, Director