

STATE OF MAINE
WORKERS' COMPENSATION BOARD

DECISION NO.: WCB-213-08-02

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WCB Case No.: 00-005314E

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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. Section 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.

DEBRA E. SMITH
(Employee)

v.

CUMMINGS HEALTH CARE
(Employer)

and

ROYAL & SUN ALLIANCE
(Insurer)

BEFORE: DIONNE, CHAIR; AND KIRKPATRICK, KOOCHER, MINGO, & MONFILETTO, DIRECTORS

Pending before the Board is a Petition For Extension of Benefits Pursuant to 39-A M.R.S.A. § 213(1).

A hearing was held on June 24, 2008, during which the employee testified as the sole witness. Also admitted into evidence were Employee's Exhibits 1-6 and Employer's Exhibits 1-9.

Deliberations were conducted at the conclusion of the hearing on June 24, 2008, and a decision was reached at the end of those deliberations.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Ms. Smith worked for Cummings Health Care (“CHC”) from 1987 through 2001. CHC was the only employer that Ms. Smith has ever worked for.
2. Ms. Smith sustained an injury on April 26, 2000.
3. Ms. Smith has not worked, nor has she looked for work, since leaving CHC in 2001.
4. Ms. Smith’s workers’ compensation benefits were terminated effective March 3, 2008.
5. The employee testified that she and her husband have monthly income of \$1,803.00.
6. The employee testified that she and her husband have monthly expenses of \$2,284.93. Included within this amount is a mortgage payment of \$379.93.
7. During cross-examination the employee testified that she and her husband own a seasonal lakefront camp and that she had not included expenses related to the camp in the exchange of information provided to CHC.
8. The employee also testified that her monthly expenses include a \$500.00 per month car payment for a vehicle purchased in 2005.
9. During cross-examination the employee testified that she and her husband have two additional vehicles, one of which they owned at the time they purchased the vehicle in 2005.
10. During deliberations, 3 members (Dionne, Koocher and Mingo) indicated that Ms. Smith had not demonstrated that she is experiencing extreme financial hardship.
11. This was based in part on a finding that the employee’s testimony with respect to her financial situation was not entirely credible and, consequently, she was unable to establish that she was experiencing extreme financial hardship.

12. At the conclusion of the deliberations, two members of the Board (Monfiletto and Kirkpatrick) voted to extend Ms. Smith's entitlement to receive benefits and three members (Dionne, Koocher and Mingo) voted against extending benefits because Ms. Smith had not demonstrated that she is experiencing extreme financial hardship.

WHEREFORE, the employee's Petition For Extension of Benefits Pursuant to 39-A M.R.S.A. § 213(1) is DENIED.

SO ORDERED.