

Greene Welding and Hardware v. Illinois Workers' Compensation Commission, 2009 Ill. App. LEXIS 1377 (4th Dist. 2009)

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The Petitioner, an industrial worker, suffered complete amputation of the right ring finger and partial amputation of the right middle finger in an industrial accident. It was not disputed that the accident arose out of and in the course of his employment with the Respondent. The Petitioner stated that he did not receive any PPD payments until after he hired counsel and the attorney subsequently contacted the employer. Moreover, the employer failed to pay the Petitioner's medical bills that resulted from the amputation.

The arbitrator found the accident compensable, but denied assessing penalties and fees. The Commission adopted the arbitrator's decision, but found that the employer's failure to pay the medical bills was unreasonable and vexatious and thus assessed penalties and attorney fees. The Circuit Court of Vermillion County confirmed the Commission's decision.

The Court upheld the Commission's assessment of penalties and attorney fees. The issue was whether the Respondent's delay in paying the statutory amputation benefits and medical expenses were unreasonable. As to the amputation benefits, the Court cited section 8(e) and stated that the Act provided for immediate payment of those benefits. While the employer alleged that it delayed payment of amputation benefits to wait until the Petitioner reached MMI, the Court noted that this was not a logical reason. Hence, it instructed that

"[w]here there is no dispute regarding whether a Petitioner's amputation injuries arose out of and in the course of his or her employment, statutory benefits for amputation are to be paid no later than the time at which the employer reasonably knows the extent of the amputation and is capable of calculating the appropriate average weekly wage" (emphasis added).

As to the other delays, the Court also found that the employer made no showings that the delays were justified. As a practice point, where there is statutory loss, and the loss can be calculated, benefits should be tendered to the claimant or the claimant's attorney, if represented, as soon as practicable.