STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.		WORKERS' COMPENSATION COURT APPELLATE DIVISION
LAUREANA S. SICAJAN	)	
	)	
VS.	)	W.C.C. 00-07268
	)	
IMPULSE PACKAGING, INC.	)	
IMPULSE PACKAGING, INC.	)	
	)	
VS.	)	W.C.C. 00-05447
	)	
LAUREANA S. SICAJAN	)	

DECISION OF THE APPELLATE DIVISION

OLSSON, J. These two (2) consolidated cases are before the Appellate Division pursuant to claims of appeal filed by the employee in each case, after adverse decisions were rendered at the trial level. The employee was ordered to show cause why her appeals should not be summarily decided on the ground that the reasons of appeal fail to describe in sufficient detail, in what manner or where in the record the trial judge erred, in order to allow the Appellate Division to undertake a meaningful review of the decision. After careful review of the record,

we find that cause has not been shown and the matters may be summarily decided.

W.C.C. No. 00-05447 is an Employer's Petition to Review, alleging that the employee refused suitable alternative employment and requesting that the court set an earnings capacity pursuant to Rhode Island General Laws § 28-33-18.2(c). The pretrial conference in this matter was held and continued several times. The record reflects that the trial judge requested that the employer modify the suitable alternative employment position, based upon medical reports from Dr. Leonard F. Hubbard. The employee would then be given the opportunity to try the job for a few weeks. She began working at the suitable alternative employment position in early November 2000, and continued to work until on or about December 11, 2000. Ms. Sicajan testified that she left work at that time because she was involved in a motor vehicle accident on December 4, 2000, in which, she injured her neck and back.

The employer amended its petition to add the allegation that the employee had voluntarily terminated her suitable alternative employment position, and therefore, an earnings capacity should be set. At the final pretrial conference on January 17, 2001, the employer's petition was granted and an earnings capacity in the amount of Two Hundred Eighty and 00/100 ($280.00) Dollars was set. The employee claimed a trial in a timely manner. Thereafter, the petition was amended again to add the allegation that the employee's incapacity has ended. After completion of the trial, the trial judge found that the employee's incapacity

had ended and ordered the employer to discontinue the payment of weekly benefits as of December 4, 2000, which was the date of an examination of the employee done by Dr. Steven N. Graff. (The employee was not receiving any weekly benefits at the time as a result of the pretrial order setting an earnings capacity in excess of her average weekly wage.) The employee claimed an appeal.

While this petition was pending, the employee filed an Employee's Petition to Review, W.C.C. No. 00-07268, alleging that the employer refuses to give written permission for surgery, disarticulation and excision of neuromas to the left middle finger and the left ring finger, as recommended by Dr. Hubbard. The petition was denied at the pretrial conference on February 28, 2001, and the employee claimed a trial. After a full hearing, the trial judge again denied the petition, stating that the employee had failed to prove that the surgery was necessary to cure, rehabilitate or relieve her from the effects of her work-related injury. The employee filed a claim of appeal from this decision.

The employer filed a motion to dismiss the employee's appeals due to the lack of specificity in her reasons of appeal. Rhode Island General Laws § 28-35-28(a) provides in part that an appellant shall file ". . . reasons of appeal stating specifically all matters determined adversely to him or her which he or she desires to appeal, ..." General statements to the effect that the decree is against the law and the evidence are insufficient to satisfy this requirement. Bissonnette v. Federal Dairy Co., 472 A.2d 1223, 1226 (R.I. 1984). The

appellant bears the burden of specifying in what manner, and where in the record the trial judge allegedly erred. Falvey v. Women & Infants Hosp., 584 A.2d 417, 419 (R.I. 1991).

The employee filed the following reasons of appeal:

> "1. The Decree is against the Law.
>
> "2. The Decree is against the evidence.
>
> "3. The Decree is against the law and the evidence and the weight thereof.
>
> "4. The Trial Judge was clearly erroneous when she found the employee was no longer disabled in whole or in part.
>
> "5. The Trial Judge was clearly erroneous to find the employee had not proved the proposed surgery was necessary to cure, relieve, or rehabilitate her from the effects of her work related injury.
>
> "6. The employee did not leave suitable alternative employment."

The first three (3) reasons clearly do not comply with the requirements for specificity and are the same statements which have been repeatedly thrown out by the Appellate Division. The last three (3) reasons of appeal are merely conclusory statements expressing the employee's disagreement with the findings of the trial judge. There is no indication as to why those findings may be erroneous. For example, was the foundation for the medical opinions relied on by the trial judge faulty or lacking? Did the trial judge overlook some key evidence on the issue? Did the trial judge improperly apply a certain provision of the law? All we can discern from these reasons is that the employee disagrees with the

conclusions of the trial judge, but there is no indication as to the basis for her allegation that the trial judge was wrong.

The employee did file a memorandum in support of her reasons of appeal which provides some explanation for her appeal and the allegations of error. However, the memorandum is not required to perfect the appeal and is intended to be used only for written argument. The filing of memoranda is optional, R.I.G.L. § 28-35-28(a). It cannot be considered an addendum to the reasons of appeal in order to satisfy the requirements of the statute and the case law.

A reading of the employee's reasons of appeal in this matter reveals that they are exactly the type that was prohibited in the Bissonnette and Falvey cases. Therefore, the employee's claims of appeal in W.C.C. Nos. 00-05447 and 00-07268 are denied and dismissed, and the decrees appealed from are affirmed.

In accordance with Sec. 2.20 of the Rules of Practice of the Workers' Compensation Court, final decrees, copies of which are enclosed, shall be entered on

Arrigan, C.J. and Healy, J. concur.

ENTER:

_____
Arrigan, C.J.

_____
Healy, J.

_____
Olsson, J.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. WORKERS' COMPENSATION COURT
APPELLATE DIVISION

LAUREANA S. SICAJAN)
)
VS.) W.C.C. 00-07268
)
IMPULSE PACKAGING, INC.)

FINAL DECREE OF THE APPELLATE DIVISION

This cause came on to be heard by the Appellate Division upon the appeal of the petitioner/employee and upon consideration thereof, the appeal is denied and dismissed, and it is:

ORDERED, ADJUDGED, AND DECREED:

The findings of fact and the orders contained in a decree of this Court entered on November 27, 2001 be, and they hereby are, affirmed.

Entered as the final decree of this Court this day of

PER ORDER:

_____

ENTER:

_____
Arrigan, C.J.

_____
Healy, J.

_____
Olsson, J.

I hereby certify that copies were mailed to Stephen J. Dennis, Esq., and George E. Furtado, Esq., on _____

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IMPULSE PACKAGING, INC.)
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)
LAUREANA S. SICAJAN)

FINAL DECREE OF THE APPELLATE DIVISION

This cause came on to be heard by the Appellate Division upon the appeal of the respondent/employee and upon consideration thereof, the appeal is denied and dismissed, and it is:

ORDERED, ADJUDGED, AND DECREED:

The findings of fact and the orders contained in a decree of this Court entered on November 27, 2001 be, and they hereby are, affirmed.

Entered as the final decree of this Court this day of

PER ORDER:

_____

ENTER:

_____
Arrigan, C.J.

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Healy, J.

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Olsson, J.

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