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IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE
March 16, 2015 Session

DUSTIN HEDGECOTH v. CUMMINS ENGINE COMPANY, INC.

Appeal from the Putnam County Circuit Court
No. 12N0182 Amy Hollars, Judge

No. M2014-01274-SC-R3-WC – Mailed June 18, 2015
Filed August 6, 2015

An employee injured his cervical spine in a fall while working for his employer. The trial court found the employee failed to make a meaningful return to work and awarded the employee permanent partial disability benefits. The employer appealed,[1] arguing the employee (1) failed to provide credible evidence of adequate and timely notice to the employer of the injury, and (2) failed to meet his burden of proving medical causation of his cervical spine condition. After our review of the record, we affirm the judgment of the trial court.

Tenn. Code Ann. § 50-6-225(e) (2008) Appeal as of Right; Judgment of the Trial Court Affirmed

DON R. ASH, SR. J., delivered the opinion of the Court, in which JEFFREY S. BIVINS, J., and BEN H. CANTRELL, SR. J., joined.

Frederick R. Baker, Cookeville, Tennessee, for the appellant, Cummins Engine Company, Inc.

Kelly R. Williams, Livingston, Tennessee, for the appellee, Dustin Hedgecoth.

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[1]Pursuant to Tennessee Supreme Court Rule 51, this workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel for a hearing and a report of findings of fact and conclusions of law.

OPINION

Factual and Procedural Background

John Paul Dustin Hedgecoth ("Employee") was employed by Cummins Engine Company ("Cummins") at their Cookeville, Tennessee plant. Employee suffered an injury on March 29, 2011, when a floor mat extending the length of his workspace slipped out from under him. After an unsuccessful Benefit Review Conference, Employee filed his complaint on July 3, 2012. The trial was held on April 28, 2014, at which Employee, Stacy Martin, Lindsey Farley, and Mitchell Glenn Kemp testified in person. Dr. David W. Gaw and Dr. James Talmage testified by deposition.

Employee testified he was thirty-nine years old at the time of trial. He began working for Cummins on February 23, 1998, and held a number of positions over the course of his employment. Employee said his first job at Cummins was one in which he monitored the parts as they moved down the assembly line. Soon thereafter, he moved to welding but was "disqualified off the welding job" by his doctor in 2005 after undergoing spinal fusion. Because he was unaware of workers' compensation, Employee did not pursue a claim in 2005.

Employee testified he eventually moved to a third shift job in media because it required less bending and stooping. In this position, Employee operated a machine called a laminator. He explained the machine combined two pieces of paper with glue making the paper double ply, cut the paper to the desired length, and rolled the resulting product onto thick cardboard rolls. Employee inserted the paper on one end and monitored the gluing and rolling processes. To oversee these processes, he was required to walk around a control panel and from one end of the machine to the other. A mat extended across the length of Employee's work area. Employee explained "paper dust" produced by the machine usually built up on the floor and mat.

On the date of his injury, Employee noticed a problem with the gluing procedure on one end of the machine and a paper jam on the other end. In a hurried pace to attend to the paper jam, Employee pivoted around the control panel and placed his left foot onto the mat. He said the mat slipped out from under him, "mainly because of the paper dust," and he landed on his shoulder. Fearing his head would also hit the concrete floor, Employee "tensed [his] neck up." Employee was shaken up and felt pain in his left shoulder but finished the remaining thirty minutes of his shift. Employee mentioned the incident to two supervisors, Tyler Hodge and Kent Sixby, prior to ending his shift. He said other employees witnessed the fall. He did not see a doctor that day.

Employee testified he believed the incident occurred on Friday morning. The following Sunday, Employee awoke with a "crick in his neck," but he still went to work. During his shift, at 3:00 a.m., he informed supervisor Kent Sixby he had to go home

because "the pain was too much." Employee left Cummins on April 5, 2011, because he could not use his arm. He described his arm as "throbbing, burning, very painful" and added the weight of his arm was "unbearable." Employee went to his primary care physician, Dr. David Seitzinger, on April 7, 2011, after he realized for the first time he should seek medical attention.

During cross-examination, Employee reiterated he was shaken up after the fall, and his left shoulder and elbow bothered him. He thought, however, the pain would go away. Employee said Dr. Seitzinger scheduled an MRI after Employee told Dr. Seitzinger about his fall at work. He recalled completing a questionnaire in preparation for his April 20, 2011 MRI. Within this questionnaire, Employee described his problem as "[p]ain in neck and runs through shoulder and sometimes makes elbow stiff." Employee acknowledged he had responded "no" to the question "Is this due to an injury?" but added he probably considered the question referenced a "wreck or something." At trial, Employee realized he should have answered "yes." Further, Employee acknowledged he responded to the question requesting the symptoms' start date as April 5, 2011, rather than the date of the fall.

Employee confirmed that Dr. Seitzinger also referred Employee to Dr. Ngo, a neurologist. Employee agreed he first saw Dr. Ngo on April 29, 2011. He acknowledged a note of Dr. Ngo indicated Employee reported he "woke up one month ago with pain in his left neck and shoulder." He also reviewed the letter dated July 29, 2011, from his attorney to Cummins which indicated Employee was giving notice of work-related injuries to his hands and a herniated disc in his back. He agreed the letter did not mention the fall at work. Also during cross-examination, Employee was reminded of a discussion summarized in a August 2011 note of Dr. Seitzinger. Within this note, Employee responded to Dr. Seitzinger's inquiry of when the neck pain began by mentioning a lack of suspension and general jarring on tow motor devices and potholes occurring in the path of tow motors. Employee explained he mentioned the tow motor job and the fall to Dr. Seitzinger because he was unsure of the cause of his herniated disc.

After Dr. Ngo informed Employee he had a herniated disc, Employee reported the same to the human resources department at Cummins. Employee's counsel sent a letter to Cummins dated July 29, 2011, to notify Cummins of Employee's injuries. When Cummins did not respond, counsel sent a follow-up letter dated September 6, 2011. After receiving the September letter, Cummins supplied Employee with a list of three physicians. Employee chose Dr. James Talmage from this list. Dr. Talmage opined the injury was not work related.

Employee recalled selecting Dr. Talmage from the panel of doctors provided by Cummins. He reviewed a note from Dr. Talmage which indicated Employee said he had neck pain while operating the tow motor at Cummins and Employee took oxycontin for his lower back which also helped his neck. He recalled the discussion but was "fairly

certain" he was referring to the media center position rather than the 2008 tow motor driver position. Employee testified the note erroneously indicated he had taken oxycontin. He next reviewed another note of Dr. Talmage, which mentioned Employee's fall at work in March "where he slipped on a mat and fell, landing on his left buttock." The note indicated Employee did not report the injury to Cummins; however, Employee said he never made such a comment to Dr. Talmage. He agreed with Dr. Talmage's notation which mentioned the "crick in his neck" and the pain in his left arm was so intense "he had to hold the arm next to his abdomen and cradle it with his right hand." However, Employee challenged Dr. Talmage's December 5, 2011 note indicating Employee reported the welding job caused his neck pain. Employee said his only discussion with Dr. Talmage about his welding job related to his carpal tunnel complaints.

Prior to working at Cummins, Employee's first job was pumping gas at a truck stop. He next worked at Aqua Tech as a stager for a number of years where he unpacked boxes of blue jeans. After leaving Aqua Tech, Employee worked on an assembly line at Shiroki Wick Manufacturing in Smithville, Tennessee, installing the lumbar and track assembly on chairs. Subsequently, he worked for Kingston Timers which made timers for appliances and then did some raised drilling for the Stu Blattner Company of Colorado at the Carthage zinc mine. Although he considered moving to Colorado to continue working with the Stu Blattner Company of Colorado, Employee pursued and obtained employment at Cummins. Employee said his restrictions now prevented him from performing any of these jobs.

On cross-examination, Employee confirmed he graduated from high school in 1993 and attended one semester at Tennessee Tech in Cookeville. He recalled working in the welding position at Cummins until the restrictions related to his lower back condition prevented him from returning to his position. He agreed Cummins accommodated him and placed him back to work on the assembly line until 2007 or 2008 when he was moved to the tow motor position. At some time between 2008 and 2009, he went to work in the media department until April 5, 2011.

Employee said since April 5, 2011, he has not looked for work or worked elsewhere. He clarified no physician has restricted him from returning to work as a tow motor operator. He agreed his condition had improved from the time he initiated his claim.

Also on cross-examination, Employee reviewed the request for assistance filed with the Tennessee Department of Labor by Employee's attorney. Employee acknowledged the form listed the date of injury as April 5, 2011, and failed to mention his fall.

Stacy Martin testified he recalled Employee's fall on March 28, 2011. He said Employee was pulling material off the spool on the laminator when his "feet flew out from under him." Mr. Martin explained, "His feet went higher than his head, and he hit just as flat on his back as he could get." Although Mr. Martin initially thought the fall appeared funny, he soon realized the fall was "no laughing matter." Mr. Martin said Employee "laid there for a little while . . .. You know, he hit hard." Mr. Martin did not know if the supervisor was aware of Employee's fall.

Lindsey Farley testified she and Employee had dated for a few years and had been engaged for five months. She recalled Employee said he slipped at work and his feet "come over his head." After the fall, she observed a number of changes in Employee. Ms. Farley said Employee was in intense pain, slept only a few hours, and had to turn his entire body to look to the left or to the right. She described changes in Employee, and she described these changes as including mood swings, attitude, and depression. Ms. Farley said she did not think his condition had improved but explained they had adjusted to it. According to Ms. Farley, Employee sleeps only a few hours at a time. She added he can occasionally play video games with his children; however, he cannot play sports with them.

Cummins presented a single live witness, Mitchell Glen Kemp. He is responsible for employee safety, environmental management functions, and physical security at Cummins. He explained part of his role as safety manager is to serve as workers' compensation manager. Mr. Kemp first learned of Employee's workers' compensation claim through a letter dated September 6, 2011, first received by the human resources department. He said this letter was his first notice of an incident. He added if other correspondence was received by Cummins, he would have been aware of it. Mr. Kemp said he has no knowledge any supervisor or managerial employee received verbal notice of the claim prior to the September 2011 letter. He testified company policy required employees to complete an initial report by the end of the shift and provide the report to Mr. Kemp for his review. He said he did not believe the policy had been ignored with regard to Employee's claims.

Under the policy, an employee is referred to the on-site health clinic shortly after an injury. Cummins would then investigate the event to mitigate risk and prevent such an accident from occurring again. In the present case, Mr. Kemp testified Cummins was unable to initiate this policy in a timely manner due to the amount of time between the date of injury and the date reported.

Mr. Kemp reviewed the medical opinions of Dr. Talmage and Dr. Gaw and acknowledged the doctors had made independent recommendations regarding Employee's return to work. Mr. Kemp said, under the collective bargaining agreement, he considered Employee to be an active employee. He said Cummins would have been

able to accommodate Employee regarding his neck condition. He opined Employee could return to work at the same or greater wage.

On cross-examination, Mr. Kemp said he was unaware of a letter from counsel dated July 29, 2011. After reviewing the letter during his testimony, he noted the letter was directed to human resources and he never received it. Had Mr. Kemp seen the letter, an investigation would have followed upon its receipt.

Dr. David W. Gaw testified he is an orthopaedic surgeon practicing at Southern Hills Medical Center in Nashville, Tennessee. Dr. Gaw saw Employee on February 4, 2014, for an independent medical examination ("IME"). In preparation for the examination, Dr. Gaw reviewed the records of Drs. Seltzinger, Ngo, Khan, Talmage, Hollman, Dougherty, and Kanagasegar.

Dr. Gaw said Employee related his problems to a March 28, 2011 work incident. Employee told him he fell onto his left side, including his shoulder and elbow, and he jerked his neck as he fell. Dr. Gaw testified although Employee said he experienced bruising and pain in his left elbow and shoulder, he did not believe at the time he was severely injured, and sought medical treatment after he continued to have pain. He noted Employee attempted to return to work but was only able to work a few days due to increasing pain in his neck and lower back.

As of the date of the examination, Employee reported he had soreness in his neck and periodic tingling in his hands and arms. Dr. Gaw said Employee had complaints of soreness in his shoulders, especially when reaching his arms overhead or outstretched. Dr. Gaw stated there was no abnormal swelling or curvatures to Employee's neck. He said Employee had "good spontaneous movement of his neck" and "full range of motion of the neck." He noted, however, Employee complained of pain when his neck was rotated or extended to the extreme. Dr. Gaw also observed Employee could fully move both shoulders, but complained of pain when moving his shoulders against resistance.

Dr. Gaw diagnosed Employee with "a chronic sprain/strain of the cervical spine with aggravation of degenerative cervical disc disease." He did not believe Employee needed further diagnostic procedures or active ongoing treatment. Based on the history given by Employee, Dr. Gaw opined to a reasonable degree of medical certainty the March 28, 2011 fall at work was the "most likely cause" of his injury. He further opined Employee reached maximum medical improvement approximately six months after his injury. Dr. Gaw did not believe surgery would improve Employee's condition. As to restrictions, Dr. Gaw told Employee to use common sense and to let pain be his limiting factor. Based on the AMA Guidelines, Sixth Edition, Dr. Gaw assigned an impairment rating of 3% to the whole person.

Dr. James B. Talmage testified he is board certified in orthopedic surgery and

emergency medicine. He said he frequently lectures on causation issues in workers' compensation injuries and is an author of Guides to the Evaluation of Disease and Injury Causation, Second Edition. Dr. Talmage said he was selected by Employee from a panel of physicians. He first saw Employee on November 17, 2011, regarding complaints of neck pain radiating to his left upper limb. According to Dr. Talmage, Employee told him he had a history of back trouble based on a prior surgery but had experienced no neck trouble until 2008. He said Employee described minor neck discomfort when driving the tow motor. Dr. Talmage later added Employee told him the neck discomfort was transient and the oxycontin Employee normally took for his back also helped his neck pain.

Dr. Talmage was aware Employee fell at work in March, 2011. He noted Employee did not seek medical care and his symptoms did not change. He said Employee told him he did not report the injury to Cummins. He testified Employee described a "crick in the neck" in early April 2011, "suggesting an awkward sleeping posture for a sustained time resulting in the onset of [Employee's] neck difficulty." Employee told him the pain was so great on April 5, Employee could not use his left arm. Dr. Talmage said Employee believed his neck pains were the result of repetitive activity at work and said Employee "indicated there had not been an injury incident or accident."

Dr. Talmage saw Employee again on December 5, 2011, and noted no change in his condition. On this occasion, Dr. Talmage said Employee attributed his neck pain to his previous welding job. According to Dr. Talmage, Employee did not mention the March 2011 fall. Dr. Talmage opined Employee's neck complaints were not caused by his employment. On March 9, 2012, Dr. Talmage issued another note about causation. He said Employee specifically told him there was no injury or accident. Instead, Employee reported he was fine at bedtime and awoke the next morning with the "crick." According to Dr. Talmage, Employee placed no significance on the March 2011 accident. He opined Employee had "a neck disk [sic] as the source of his pain syndrome, but "his neck disk [sic] problem was not caused working at Cummins."

Dr. Talmage reviewed Dr. Gaw's IME report and disagreed with Dr. Gaw's opinion regarding causation. Dr. Talmage did not believe the March "minor fall" aggravated any condition. He acknowledged, however, the impairment rating for chronic nonspecific neck pain would be in the 0% to 3% category.

After taking the matter under advisement, the trial court issued an order on June 9, 2014. The court found Employee suffered a work-related injury to his cervical spine and he gave timely notice of his injury to Cummins.[2] The trial court accredited Dr. Gaw, finding him to be more persuasive on the issue of causation. The trial court concluded

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[2]Employee's complaint included a carpal tunnel injury; however, the trial court found the evidence was insufficient to support such a claim. Only the cervical spine injury is addressed here.

Employee failed to make a meaningful return to work and awarded permanent partial disability benefits based on a 12% permanent vocational disability to the body as a whole. Cummins appealed.

Standard of Review

The standard of review of issues of fact in a workers' compensation case is *de novo* upon the record of the trial court accompanied by a presumption of correctness of the findings, unless the preponderance of evidence is otherwise. Tenn. Code Ann. § 50-6-225(e)(2) (2008). Considerable deference is given the trial court as to credibility and weight to be given testimony when the trial judge had the opportunity to observe the witness' demeanor and to hear in-court testimony. Madden v. Holland Group of Tenn., 277 S.W.3d 896, 900 (Tenn. 2009). When the issues involve expert medical testimony in the record given by deposition, determination of the weight and credibility of the evidence necessarily must be drawn from the contents of the depositions, and the reviewing court may draw its own conclusions with regard to those issues. Foreman v. Automatic Sys., Inc., 272 S.W.3d 560, 571 (Tenn. 2008). A trial court's conclusions of law are reviewed de novo upon the record with no presumption of correctness. Seiber v. Reeves Logging, 284 S.W.3d 294, 298 (Tenn. 2009).

Analysis

In this appeal, Cummins argues (1) Employee failed to present credible evidence he gave an adequate and timely notice of his alleged injury, and (2) he failed to prove medical causation regarding his cervical spine injury. The trial court found for Employee on both issues. We therefore consider whether the evidence preponderates against the trial court's findings.

Notice

Tennessee Code Annotated section 50-6-201provides that:

> (a) Every injured employee or the injured employee's representative shall, immediately upon the occurrence of an injury, or as soon thereafter as is reasonable and practicable, give or cause to be given to the employer who has no actual notice, written notice of the injury, and the employee shall not be entitled to physician's fees or to any compensation that may have accrued under this chapter, from the date of the accident to the giving of notice, unless it can be shown that the employer had actual knowledge of the accident. No compensation shall be payable under this chapter, unless the

> written notice is given the employer within thirty (30) days after the occurrence of the accident, unless reasonable excuse for failure to give the notice is made to the satisfaction of the tribunal to which the claim for compensation may be presented.
>
> (b) In those cases where the injuries occur as the result of gradual or cumulative events or trauma, then the injured employee or the injured employee's representative shall provide notice of the injury to the employer within thirty (30) days after the employee:
>
> (1) Knows or reasonably should know that the employee has suffered a work-related injury that has resulted in permanent physical impairment; or
>
> (2) Is rendered unable to continue to perform the employee's normal work activities as the result of the work-related injury and the employee knows or reasonably should know that the injury was caused by work-related activities.

Tenn. Code Ann. § 50-6-201(a), (b) (2008).

In this case, Employee testified his fall occurred about thirty minutes before his shift ended. He said he passed through the control room before leaving work and told two supervisors, Tyler Hodge and Kent Sixby, about the incident. Employee explained he was aware of the on-site health facility but added he had to leave to take his children to school. If this testimony is accredited, Cummins had actual knowledge of the injury on the date it occurred.

Further, Employee awoke with a "crick in his neck" two or three days after his fall but returned to work at Cummins. When the pain in his neck and left arm became unbearable, Employee informed his supervisor he could not finish his shift and took accumulated leave time. Again, if the trial court believed Employee, Cummins arguably had notice of the injury via his supervisor.

When Employee left his shift early, he realized for the first time he should likely seek medical attention. He made the first available appointment with his primary care physician, who ordered x-rays and an MRI and referred him to a neurologist. Upon learning he had a cervical spine injury which his physicians opined resulted from his fall at work, Employee said he told the human resources office at Cummins. Employee's counsel sent a letter to Cummins on July 29, 2011, informing them of Employee's injuries and counsel had been retained. A follow-up letter was sent by counsel on September 6,

2011. After the September letter, Cummins provided Employee with a panel of approved physicians from which he chose Dr. Talmage.

Cummins insists it had no knowledge of the alleged injury until September 2011. Its argument focuses on the credibility of Employee and Dr. Talmage. As summarized above, Cummins' counsel attempted to discredit Employee throughout his testimony by pointing out purported inconsistencies in his statements within the physicians' records. On each occasion, Employee offered an explanation the physician notes. Cummins relies heavily on Dr. Talmage's deposition testimony and notes. Dr. Talmage testified Employee specifically told him he did not report the injury to his employer.

Although the trial court did not make specific findings to support its conclusion Employee provided proper notice, the court obviously chose to accredit the testimony of Employee, specifically regarding Employee's testimony he gave notice of his injury to his employer. As noted, we give considerable deference to the trial court when the trial court can observe the witness' demeanor and hear in-court testimony. Madden, 277 S.W.3d at 900. Furthermore, having reviewed the entire record, we cannot conclude the evidence preponderates against the trial court's judgment.

Causation/Anatomical Impairment Rating

Cummins next argues Employee failed to establish his cervical spine injury was causally related to his fall at work. It is well settled an employee seeking workers' compensation benefits must prove every element of her claim by a preponderance of the evidence. Vandall v. Aurora Healthcare, LLC, 401 S.W.3d 28, 32 (Tenn. 2013). For an injury to be compensable, the employee must prove the injury arose out of the work and it occurred in the course of employment. Padilla v. Twin City Fire Ins. Co., 324 S.W.3d 507, 511 (Tenn. 2010). Thus, the employee must prove the injury has a causal connection with the work. Foreman v. Automatic Sys., Inc., 272 S.W.3d 560, 572 (Tenn. 2008).

Except in the most obvious circumstances, causation must be established by expert medical evidence. Arias v. Duro Standard Prods, Co., 303 S.W.3d 256, 264 (Tenn. 2010). This expert evidence may be supported by relevant lay testimony. Excel Polymers, LLC v. Broyles, 302 S.W.3d 268, 274 (Tenn. 2009). Although causation cannot rest on speculative or conjectural evidence, absolute medical certainty is not required. Clark v. Nashville Mach. Elevator Co., 129 S.W.3d 42, 47 (Tenn. 2004).

Upon review, all reasonable doubts regarding the weight of the causation evidence should be resolved in favor of the employee. Cloyd v. Hartco Flooring Co., 274 S.W.3d 638, 643 (Tenn. 2008). When the medical causation testimony is presented by deposition, the reviewing court may independently assess the evidence to determine

where the preponderance of the evidence lies. Williamson v. Baptist Hosp. of Cocke Cnty, Inc., 361 S.W.3d 483, 487 (Tenn. 2012).

In the instant case, we are presented with the competing deposition testimony of Dr. Gaw offered by Employee and Dr. Talmage offered by Employer. Dr. Gaw opined Employee's injury was related to his fall at work, and Dr. Talmage opined the cervical spine injury was not work related. The trial court reviewed both depositions and adopted Dr. Gaw's opinion, finding his opinion to be more persuasive than the testimony of Dr. Talmage.

Our review of the record reveals these physicians reviewed substantially similar materials before rendering their respective opinions. Indeed, Dr. Talmage was more familiar with Cummins' plant and had been on workers' compensation physician panels for Cummins. He also made himself aware of the tasks involved in each job held by Employee. Nonetheless, these physicians reached different results as to causation.

Cummins' argument hinges heavily on the credibility of Employee. During the trial, counsel for Cummins repeatedly challenged the veracity of Employee's statements to Drs. Gaw and Talmage. Thus, Employee's credibility became particularly important to the trial court's resolution of the causation question.

The trial court is given great deference in evaluating causation testimony. Thomas v. Aetna Life and Casualty, Co., 812 S.W.2d 279, 283 (Tenn. 1991). Although expert medical testimony is required to prove causation and permanency of injury, testimony must be considered in light of the employee's lay testimony concerning the injury and other events within the employee's knowledge. Id. When expert medical testimony differs, it is within the trial judge's discretion to accept the opinion of one expert over another. Hinson v. Wal-Mart Stores, Inc., 654 S.W.2d 675, 676-77 (Tenn. 1983).

Obviously, the trial court accredited the testimony of Employee. As to the court's finding Employee and Dr. Gaw are credible, we do not find the evidence preponderates otherwise. Cummins urges this Court to reverse the trial court and accept Dr. Talmage's opinion because of his "superior credentials." We find no abuse of discretion in the trial court's adoption of Dr. Gaw's opinion, and we affirm the trial court.

Conclusion

The judgment of the trial court is affirmed. Costs are taxed to Cummins Engine Company, Inc.

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DON R. ASH, SENIOR JUDGE

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

DUSTIN HEDGECOTH v. CUMMINS ENGINE COMPANY, INC.

Circuit Court for Putnam County
No. 12N0182

No. M2014-01274-SC-WCM-WC - Filed August 7, 2015

ORDER

This case is before the Court on the motion for review filed by Cummins Engine Company, Inc. ("Cummins"), pursuant to Tennessee Code Annotated section 50-6-225(e)(5)(A)(ii) (applicable to injuries occurring prior to July 1, 2014).

The decision of the Workers' Compensation Appeals Panel in this case was filed on June 18, 2015. Consequently, any motion for review was due on or before July 3, 2015. *See* Tenn. Code Ann. § 50-6-225(e)(5)(A)(ii) (providing that any party to the appeal may file "a motion requesting review by the entire supreme court within fifteen (15) days after issuance of the decision by the panel"). Because Cummins' motion was not filed until July 22, 2015, the motion is untimely and must be dismissed. *See Young v. Nashville Elec. Serv.*, 142 S.W.3d 292 (Tenn. 2004); *Adams v. City of Kingsport*, No. E2007-00630-SC-WCM-WC, 2008 WL 1915183, at *1 (Tenn. Workers' Comp. Panel May 2, 2008).

It is therefore ordered that the motion for review is dismissed. Costs are taxed to Cummins Engine Company, Inc., for which execution may issue if necessary.

PER CURIAM