



Self-Insuring Employers Evaluation Board
30 West Spring Street, 30th Floor
Columbus, Ohio 43215

Kevin Abrams
Industrial Commission
Chairman, **STIEEB**
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Ohio Self-Insurers Association
Member, **STIEEB**
(330)471-3456

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Ohio AFL-CIO
Member, **STIEEB**
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June 21, 2011

Mr. Steven A. Hatten
Earl, Warburton, Adams & Davis
136 West Mound Street
Columbus, OH 43215

Re: Claim No.: [REDACTED]
Injured Worker: [REDACTED]
Employer: Trinity Health Corp.
Risk No.: 20003207-00
Complaint No.: 17137

Dear Mr. Hatten

Please be advised that after investigation and discussion of Complaint No. 17137 at its meeting held May 10, 2011, the Self-Insuring Employers Evaluation Board grants the employer's appeal dated March 8, 2011 from the finding of a valid complaint issued by the Administrator's Designee, Jeremy Jackson, on February 18, 2011.

On August 19, 2010, [REDACTED] filed a First Report of an Injury, Occupational Disease or Death alleging a date of injury of September 11, 2008. Thereafter, the instant self-insured complaint was filed on October 27, 2010 alleging that the employer refused to provide the injured worker human resources and employee health records. By letter dated December 13, 2010, the Self-Insured Department dismissed the complaint as invalid. By letter dated February 18, 2011, the Administrator's Designee reversed the finding, and found a violation of Ohio Adm.Code 4123-19-03(K)(9), concluding that "the employer apparently continued its policy of denying personnel records to former employees..."

Ohio Adm.Code 4123-19-03(K)(9) provides, "Upon written request by the claimant or claimant's representative, the employer shall make available for review all the employer's records pertaining to the claim." With the exception of [REDACTED] testimony, there is simply no evidence to support a finding that the employer violated Ohio Adm.Code 4123-19-03(K)(9). The Board notes that in an order issued February 5, 2011, an Industrial Commission Staff Hearing Officer found that [REDACTED] testimony was not persuasive, and therefore he failed to satisfy his burden of proving an injury in

the course of and arising out of his employment. The Staff Hearing Officer set out in some detail the history of the claim. The application, filed August 18, 2010, alleged a neck injury that occurred on September 11, 2008. [REDACTED] acknowledged he did not complete a written accident report. There are no records from an alleged visit to Employee Health. The Staff Hearing Officer notes [REDACTED] was fired for disciplinary reasons on November 3, 2008, and specifically finds "[t]here is no indication in the file that the injured worker had notified anyone of a potential neck injury at the time of his dismissal."

The Staff Hearing Officer's finding supports the employer's position that the personnel records eventually supplied to [REDACTED] prior to the Staff Hearing Officer hearing do not pertain to the claim. Accordingly, the Board finds no violation of Ohio Adm.Code 4123-19-03(K)(9).

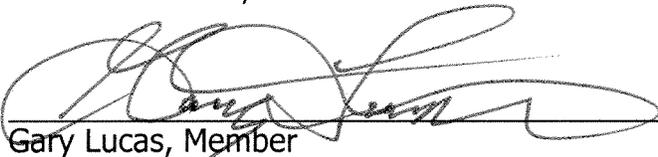
Based on a review of the February 5, 2011 Staff Hearing Officer order, the transcript from that hearing, and the employer's position set forth in counsel's correspondence dated March 8, 2011, the February 18, 2011 decision of the Administrator's Designee is reversed, the complaint is found invalid and is hereby dismissed.

SELF-INSURING EMPLOYERS EVALUATION BOARD



Kevin R. Abrams, Chairman

YES



Gary Lucas, Member

YES



Christopher Royer, Member

YES

cc:

[REDACTED]
William Swards, Jr.
Trinity Health Corp.
Mount Carmel – East
CompManagment
Self-Insured Department, BWC