

ORDER

SELF-INSURING EMPLOYERS EVALUATION BOARD FORMAL HEARING FINDINGS

IN THE MATTER OF: PRETTY PRODUCTS (EMPLOYER); Risk No. 200002828-0
AND
[REDACTED] (INJURED WORKER); CLAIM No. [REDACTED]
COMPLAINT No. 14490



USWA 50 L
ATTN Greg Lauvray
18132 Township Road 347
Coshocton, Ohio 43812

Pretty Products, Inc.
ATTN Marie Salmon
437 Cambridge Road
Coshocton, Ohio 43812

Black, McCuskey, Souers and Arbaugh
ATTN Gust Callas
220 Market Avenue South
Canton, Ohio 44702-2116

Taft, Stettinus & Hollister
ATTN Frank Titus
21 East State Street 12th floor
Columbus, Ohio 43215-4228

Cantlon Associates Inc.
ATTN Sue Ridge
450 W. Wilson Bridge Road, Suite 200
Worthington, Ohio 43085

FOR THE EMPLOYER: Gust Callas
FOR THE INJURED WORKER: Greg Lauvray
FOR THE ADMINISTRATOR: Michael Travis

This matter came before the Board on 9/28/2005, for formal hearing on Complaint No. 14490 filed on 4/8/2005 by the union representative on behalf of the injured worker alleging that the employer refused to accept a Medco-14 by fax along with other medical documents.

The BWC Self-Insured Department forwarded this complaint to the self-insuring employer. The employer responded on 4/19/2005, stating in part that BWC does not have jurisdiction of this matter. The employer took the position that the dispute is between the self-insuring employer and the union, and submitted a provision from the Collective Bargaining

Agreement. The agreement included language that requires injured workers to hand deliver Medco-14s to the supervisor following subsequent visits to the physician of record. The employer argued that the self-insured complaint should be dismissed.

On 5/3/2005, the BWC Self-Insured Department found the self-insured complaint to be valid citing Ohio Adm. Code 4123-19-03(K)(5). The request for reconsideration was forwarded to BWC's Administrator's Designee on 5/31/2005. On 6/14/2005, the Designee found the complaint to be invalid citing the provision in the Collective Bargaining Agreement, the terms of which are not in BWC's jurisdiction.

On behalf of the injured worker, the union representative has requested a hearing before the Board on this issue.

An off-the-record discussion took place concerning various issues, including the requirements of the contract and the parties' willingness to abide by those requirements, and achieve resolution of those matters.

As a result of the off-the-record discussion, the Board finds that the parties have agreed the dispute in question involves an interpretation of the Collective Bargaining Agreement. Therefore, neither BWC nor the Self-Insuring Employer's Evaluation board has jurisdiction over this matter. The Board finds that the self-insured complaint should be dismissed.

For the foregoing reasons, upon motion made by James Sharpe, seconded by Wesley Wells, Complaint No. 14490 should be dismissed.

A copy of this order shall be placed in the Self-Insured Department's file.

SELF-INSURING EMPLOYERS EVALUATION BOARD



Kevin R. Abrams, Chairman Yes



James Sharpe, Member Yes



Wesley Wells, Member Yes

DATE MAILED: 13th DAY OF February, 2006