

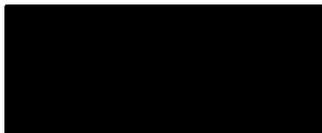
**SELF-INSURING EMPLOYERS EVALUATION BOARD
INFORMAL CONFERENCE FINDINGS**

IN THE MATTER OF:

YUM! Brands, Inc. (Employer), Risk No. 20003970-00

██████████ (Injured Worker), Claim No. ██████████

Complaint No. 16514



Marchese and Monast
Attn: James P. Monast
1017 Dublin Road
Columbus, OH 43215

YUM! Brands, Inc.
Attn: Workers' Compensation Administrator
1441 Gardiner Lane
Louisville, KY 40213

Reminger Company, L.P.A.
Attn: Mick Proxmire
65 East State Street, Suite 400
Columbus, OH 43215

Gallagher & Bassett Services
Attn: Pam Highley
One Metro Place
545 Metro Place South, Suite 250
Dublin, OH 43017

FOR THE INJURED WORKER: James Monast
FOR THE EMPLOYER: Mick Proxmire
FOR THE ADMINISTRATOR: Jean Krum

This matter was set for informal conference before the Self-Insuring Employers Evaluation Board on May 11, 2010 on Complaint No. 16514. The complaint alleged that the employer did not release the settlement check in a timely manner. The relevant history giving rise to this issue is set out below.

In an order issued November 22, 2008, a Staff Hearing Officer of the Industrial Commission disapproved the SI-42, Self Insured Joint Settlement Agreement and Release, signed by the injured worker on October 20, 2008 and filed on November 15, 2008, for the reason that the agreement was not signed by the employer. Thereafter, the employer signed the settlement agreement on December 4, 2008; and the agreement was filed with BWC on December 5, 2008. On January 14, 2009, the injured worker filed the instant complaint asserting that the employer would not release the settlement check in a timely manner. Another copy of the settlement agreement was filed on January 23, 2009. Pursuant to R.C. 4123.65, the settlement agreement was reviewed by a Staff Hearing Officer and approved on January 27, 2009. The employer paid the settlement on February 2, 2009.

In a letter dated April 9, 2009, BWC's Self-Insured Department dismissed the complaint as invalid, relying on the January 27, 2009 Staff Hearing Officer approval of the settlement agreement and February 2, 2009 payment. By letter dated April 15, 2009, Mr. Monast on behalf of the injured worker requested reconsideration of BWC's dismissal of the complaint. Mr. Monast asserted that the settlement agreement was approved due to a lack of action by a Staff Hearing Officer within the time frame set forth in R.C. 4123.65 and that the settlement should be found payable as of the date of the last signature on the application, which was December 4, 2008.

The injured worker's request for reconsideration was addressed in a letter dated September 16, 2009 from Joy Bush, Director of Employer Management Services. Ms. Bush noted the history as stated above, with the exception of the filing of the settlement agreement on December 5, 2009. Ms. Bush finds the settlement agreement was re-submitted on January 23, 2009. Ms. Bush disagreed with Mr. Monast's assertion that the employer was required to pay the settlement once the employer signed the application on December 4, 2008. Ms. Bush found that in order for a settlement agreement to be valid, it must contain the signature of all parties and that in this claim, the first time a valid settlement agreement was filed was January 23, 2009. Ms. Bush found that the employer was not required to pay the settlement prior to the submission of the valid settlement agreement and therefore upheld the finding that the complaint was invalid.

By letter dated September 23, 2009, Mr. Monast requested the matter be referred to the Self-Insuring Employer's Evaluation Board. In that letter, Mr. Monast pointed out that the employer signed the agreement on December 4, 2008 and the employer's failure to file the agreement was a clear mistake on their part and that the employer's mistake was further compounded by their refusal to pay the settlement upon the expiration of the 30 day cooling off period. Mr. Monast asserted that there is no provision for a self-insuring employer to hold payment until approval from a Staff Hearing Officer.

The Board first notes that in the processing of the self-insured complaint, reviewers failed to recognize that after signature by the employer on December 4, 2008, the settlement agreement was re-filed with BWC on December 5, 2008, as indicated by the perforated date stamp on the agreement. The signed agreement was filed for a third time on January 23, 2009.

The issue before the Board is whether under the circumstances outlined above, the payment of the settlement on February 2, 2009 is in violation of a policy, rule or Industrial Commission order so as to provide a basis for a valid complaint. The Board finds that it does not.

R.C. 4123.65(C) provides that no settlement agreement shall take effect until thirty days after the self-insuring employer and employee sign the final settlement agreement. In this case, the settlement agreement was signed by the employer on December 4, 2008 and would have taken effect on January 4, 2009. The Board finds no statutory provision or rule however, that mandates a time frame within which a self-insuring employer must make payment of a settlement. The Board is well aware of standard Industrial Commission practice to refer settlement agreements for Staff Hearing Officer review pursuant to R.C. 4123.65(C) during the thirty day "cooling off" period. While it is clear that the signed

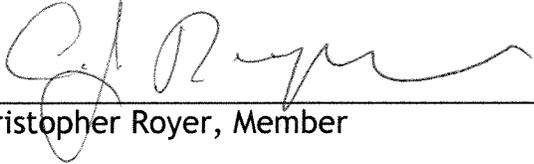
agreement was filed with BWC on December 5, 2008, it is not clear when BWC referred the matter to the Industrial Commission as required by R.C. 4123.65. The matter was reviewed by a Staff Hearing Officer on January 27, 2009, and paid by the self-insuring employer on February 2, 2009. Under the circumstances, the Board finds the Injured Worker's complaint is without merit, and it is hereby dismissed.

SELF-INSURING EMPLOYERS EVALUATION BOARD



Kevin R. Abrams, Chairman YES

Wesley Wells, Member NOT PRESENT



Christopher Royer, Member YES

DATE MAILED: 15th DAY OF July, 2010