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Tennessee Court of Workers' Compensation Claims
and Workers' Compensation Appeals Board

Law

10-31-2016

Peller, Michael v. General Mills, Inc.

Tennessee Court of Workers Compensation Claims

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October 31, 2016

**IN COURT OF
WORKERS' COMPENSATION
CLAIMS**

Time 11:00 AM



**TENNESSEE BUREAU OF WORKERS' COMPENSATION
IN THE COURT OF WORKERS' COMPENSATION CLAIMS
AT NASHVILLE**

MICHAEL PELLER,)	Docket No. 2015-06-0262
Employee,)	
v.)	State File No. 97771-2015
GENERAL MILLS, INC.,)	
Employer.)	Judge Joshua Davis Baker

ORDER OF DISMISSAL

The Court convened for an expedited hearing of this claim on October 27, 2016. Counsel for General Mills, Inc., John Lewis, appeared and brought several witnesses. Counsel for Michael Peller, Vakeesha Hood-Schneider, also appeared but her client did not attend. At the outset of the hearing, Ms. Hood-Schneider announced to the Court that Mr. Peller had contacted her just before the hearing via text message and stated he did not wish to pursue his claim and would not attend the hearing. Ms. Hood-Schneider made an oral motion to withdraw as counsel for Mr. Peller and the Court granted her motion.

Mr. Lewis requested that the Court enter judgment against Mr. Peller by default. Alternatively, he asked the Court to dismiss Mr. Peller's claim with prejudice.

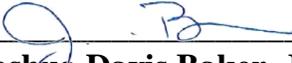
The Court denies General Mills' motion for a default judgment. The parties appeared before the Court for an expedited hearing of issues related to temporary disability and medical benefits only; not a final compensation hearing. Because the Court convened only an expedited hearing, granting a default judgment on the merits of the entire case would not be appropriate.

The Court does, however, find General Mills' motion to dismiss well-taken. Based on Mr. Peller's communication with his attorney, he does not wish to pursue the claim further. Accordingly, neither the Court nor General Mills should be required to expend further time and expense in attending to his claim. Under these circumstances,

the Court dismisses Mr. Peller's claim without prejudice to its refiling.¹ The Court assesses the \$150.00 filing fee against General Mills, Inc. pursuant to Tennessee Compilation Rules and Regulations 0800-02-21-.07, for which execution may issue as necessary.

IT IS SO ORDERED

ENTERED ON THIS THE 31ST DAY OF OCTOBER, 2016.



Joshua Davis Baker, Judge
Court of Workers' Compensation Claims

Right to Appeal:

Tennessee Law allows any party who disagrees with this Compensation Hearing Order to appeal the decision to the Workers' Compensation Appeals Board or the Tennessee Supreme Court. To appeal your case to the Workers' Compensation Appeals Board, you must:

1. Complete the enclosed form entitled: "Compensation Hearing Notice of Appeal."
2. File the completed form with the Court Clerk *within thirty calendar days* of the date the Workers' Compensation Judge entered the Compensation Hearing Order.
3. Serve a copy of the Compensation Hearing Notice of Appeal upon the opposing party.
4. The appealing party is responsible for payment of a **filing fee in the amount of \$75.00**. Within ten calendar days after the filing of a notice of appeal, payment must be received by check, money order, or credit card payment. Payments can be made in person at any Bureau office or by United States mail, hand-delivery, or other delivery service. In the alternative, the appealing party may file an Affidavit of Indigency, on a form prescribed by the Bureau, seeking a waiver of the filing fee. The Affidavit of Indigency may be filed contemporaneously with the Notice of Appeal or must be filed within ten calendar days thereafter. The Appeals Board will consider the Affidavit of Indigency and issue an Order granting or denying

¹ This dismissal order serves as a final order in this claim. Accordingly, Mr. Peller, who is now without counsel, may appeal the order, if he desires, in the manner provided for appeals of a compensation hearing order. The Court set forth information concerning his appeal rights in this order.

the request for a waiver of the filing fee as soon thereafter as is practicable. **Failure to timely pay the filing fee or file the Affidavit of Indigency in accordance with this section shall result in dismissal of the appeal.**

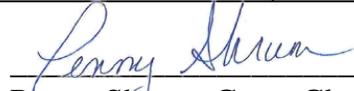
5. The party filing the notice of appeal, having the responsibility of ensuring a complete record on appeal, may request, from the Court Clerk, the audio recording of the hearing for the purpose of having a transcript prepared by a licensed court reporter and filing it with the Court Clerk within fifteen calendar days of the filing of the Expedited Hearing Notice of Appeal. Alternatively, the party filing the appeal may file a joint statement of the evidence within fifteen calendar days of the filing of the Compensation Hearing Notice of Appeal. The statement of the evidence must convey a complete and accurate account of what transpired in the Court of Workers' Compensation Claims and must be approved by the workers' compensation judge before the record is submitted to the Clerk of the Appeals Board. *See* Tenn. Comp. R. & Regs. 0800-02-22-.03 (2015).
6. After the Workers' Compensation Judge approves the record and the Court Clerk transmits it to the Workers' Compensation Appeals Board, the appeal will be docketed and assigned to an Appeals Board Judge for review. At that time, a docketing notice shall be sent to the parties. Thereafter, the parties have fifteen calendar days to submit briefs to the Appeals Board for consideration. *See* Tenn. Comp. R. & Regs. 0800-02-22-.02(3) (2015).

To appeal your case directly to the Tennessee Supreme Court, the Compensation Order must be final and you must comply with the Tennessee Rules of Appellate Procedure. If neither party timely files an appeal with the Appeals Board, this Order will become final by operation of law thirty (30) calendar days after entry, pursuant to Tennessee Code Annotated section 50-6-239(c)(7).

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the following recipients by the following methods of service on this the 31st day of October, 2016.

Name	Certified Mail	Via Fax	Via Email	Email Address
Vakeesha Hood-Schneider			X	jamesevans@yahoo.com
John R. Lewis			X	john@johnlewisattorney.com
Michael Peller	X			309 Oakdale Dr. Whitehouse, Tennessee 37188



Penny Shrum, Court Clerk
Wc.courtclerk@tn.gov