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TEMPORARY PARTIAL DISABILITY BENEFITS

Republic Waste Services, Inc./East Bay Sanitation Services and
CCMSI v. Nelson Ricardo, 36 Fla. L. Weekly D1787 (Fla. 1st DCA
August 15, 2011)

The JCC awarded TPD benefits, but denied penalties and interest (p/i). The e/c appealed the award of TPD and the claimant cross-appealed the denial of p/i. The First DCA affirmed the award of TPD and reversed and remanded the denial of p/i.

The JCC determined the claimant did not submit DWC-19, employee earnings reports, to the e/c and denied p/i finding the payment of TPD was not due and owing until the claimant filed the earnings reports for the appropriate periods. However, the evidence did not establish that the e/c ever sent the DWC-19 forms to the claimant.

The First DCA discussed that under their prior ruling in Jack Feagin Electric v. Hallmark, 894 So. 2d 1083, the claimant must return the DWC-19s in order to establish entitlement to payment of TPD benefits, where the forms are first sent to the claimant by the e/c. In the present case it was error to

conclude the TPD benefits were due until the claimant returned the DWC-19s, he may have never heard of, or actually received.

Under the current administrative rule the e/c must send the claimant who has been released to work on a restricted basis a letter and DWC-19, explaining the eligibility to TPD benefits, see rule 69L-3.01915, 3.021 and 3.025, Florida Administrative Code. The Court further discussed that both the rule and the letter require the claimant must be furnished the DWC-19 before his/her obligation to complete and return the forms occurs. Because the e/c did not prove forms were ever sent to the claimant it failed to prove the claimant had any duty to complete and return the DWC-19s.

KAR/jab