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April 28, 2014

FLORIDA LAW WEEKLY

April 18, 2014

TPD

Southeast Milk v. Fisher, 39 Fla. L. Weekly D780 (Fla. 1st DCA
April 14, 2014)

The E/C appealed the JCC's order awarding TPD from 5/3/13 through 7/2/13 on the grounds that the JCC failed to consider whether the Claimant was fired on 12/19/12 for misconduct. The Court reversed, and remanded holding the JCC should have made a determination on whether the claimant was fired for misconduct. Section 440.15(4)(e), Florida Statutes provides that no TPD benefits are due if a claimant is terminated for misconduct. The Claimant was released to light duty after a compensable accident, and returned to work watching safety videos. He came to work on two nonconsecutive days, and was subsequently terminated because he stopped showing up. He was in violation of a company policy that said a "no-call, no-show" could result in termination. The JCC held the award of TPD benefits would be the same even if he found the Claimant had been terminated for misconduct. This was an inaccurate statement since being terminated for misconduct bars receipt of TPD benefits.

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