

Alaska Workers' Compensation Appeals Commission

Izaz E. Khan,
Appellant,

vs.

Adams & Associates, Insurance Company
of the State of Pennsylvania,
Appellees.

Memorandum Decision
on Motion for Reconsideration
Decision No. 025 January 10, 2007

AWCAC Appeal No. 06-018
AWCB Decision No. 06-0203
AWCB Case No. 200503126

Motion for Reconsideration of AWCAC Decision No. 019, Denying Motion to Waive Filing Fees in AWCAC Appeal No. 06-018 from Alaska Workers' Compensation Board Decision No. 06-0203, Janel Wright, Chair, Stephen Hagedorn, Member for Management, and Raymond Scott Bridges, Member for Labor.

Appearances: Izaz E. Khan, appellant pro se; Timothy McKeever, Holmes Weddle & Barcott, for appellees Adams & Associates, Insurance Company of the State of Pennsylvania.

This decision has been edited to conform to technical standards for publication.

Commissioners: Chris N. Johansen, John Giuchici, and Kristin Knudsen.

By: Chris N. Johansen, Appeals Commissioner.

Appellant Izaz Khan has filed a motion for reconsideration of the commission's October 4, 2006 order denying his request to waive the filing fee on grounds of indigency.¹ Without making a finding regarding credibility, and on the basis of evidence

¹ *Khan v. Adams & Assoc.*, AWCAC Dec. No. 019 (October 4, 2006). The commission may reconsider its decision under AS 23.30.008, AS 23.30.128 and 8 AAC 57.230.

of changed circumstances, the Commission reverses its decision regarding Mr. Khan's indigency and waives the \$50.00 filing fee in this appeal.²

On December 11, 2006 the appellant, Izaz Khan, appeared before the appeals commission for a hearing on his motion for reconsideration. He was more forthcoming and less evasive than at his previous hearing and responded fully to questioning by the chair. He provided a more complete picture of his circumstances and explained why he has been unable to obtain ongoing employment.

Khan stated that he was not working and presented evidence of sporadic employment over the past several months. He stated that he is capable of working and actively seeking employment. However, he has a record of DUI which is clearly a barrier to employment as a driver. Moreover, he explained that he has a back and knee injury that prevents him from standing for long periods of time or lifting even moderately heavy objects. Khan believes that employers "ask too much of him" and refuse to make accommodations for him based upon his physical limitations. He also believes that he is discriminated against on the basis of his national origin.

Khan has no home and is currently living in an outdoor camp. Although he is on a waiting list for subsidized housing he is unable to afford a place to live because he has no income. He has applied for public assistance.

Appellees' opposition does not challenge this factual basis or provide any evidence to support the contention that Mr. Kahn is not, in fact, indigent.

Without determining credibility, considering the lack of opposition, and based on the employee's statements, the commission finds he is indigent for purposes of waiving the filing fee.

² Appeals Commissioner Marc Stemp, who was on the original panel in this appeal, subsequently resigned from the Worker's Compensation Appeals Commission and was replaced by Appeals Commissioner Chris Johansen.

The appellant's request to waive a filing fee as an indigent is GRANTED.

Date: 10 January 2007 ALASKA WORKERS' COMPENSATION APPEALS COMMISSION



Signed

Chris N. Johansen, Appeals Commissioner

Signed

John Giuchici, Appeals Commissioner

Signed

Kristin Knudsen, Chair

APPEAL PROCEDURES

This is not a final commission decision on this appeal from the board's decision and order. However, it is a final decision on whether the appellant is entitled to a waiver of a filing fee. Because this is a decision made on the motion to the commission to reconsider, reconsideration by the commission is no longer available. This decision becomes effective when filed in the office of the commission unless proceedings to reconsider it or seek Supreme Court review are instituted.

Effective November 7, 2005, proceedings to appeal must be instituted in the Alaska Supreme Court within 30 days of the filing of a final decision and be brought by a party in interest against the commission and all other parties to the proceedings before the commission, as provided by the Alaska Rules of Appellate Procedure. AS 3.30.129. Because this is not a final decision on the merits of this appeal, the Supreme Court may not accept an appeal.

Other forms of review are available under the Alaska Rules of Appellate Procedure, including a petition for review or a petition for hearing. No decision has been made on the merits of this appeal, but if you believe grounds for review exist under the Appellate Rules, you should file your petition for review within 10 days after the date of this decision.

You may wish to consider consulting with legal counsel before filing a petition for review or for hearing or an appeal.

If you wish to appeal or petition for review or hearing to the Alaska Supreme Court, you should contact the Alaska Appellate Courts immediately:

Clerk of the Appellate Courts
303 K Street
Anchorage, AK 99501-2084
Telephone 907-264-0612

CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of the Memorandum Decision No. 025 on Motion to Reconsider AWCAC Dec. No. 019, in the matter of Izaz Khan v. Adams & Associates, Insurance Company of the State of Pennsylvania; AWCAC Appeal No. 06-018, dated and filed in the office of the Alaska Workers' Compensation Appeals Commission in Anchorage, Alaska, this 10th day of January, 2007.

Signed
C. J. Paramore, Appeals Commission Clerk

I certify that a copy of this Memorandum Decision No. 025 in AWCAC Appeal No.06-018 was mailed on 1/10/07 to Khan & McKeever at their addresses of record and faxed to Director WCD, AWCB Appeals Clerk, & McKeever.

Signed 1/10/07
L. Beard, Deputy Clerk Date