

IN THE WORKERS' COMPENSATION COURT OF THE STATE OF MONTANA

1998 MTWCC 16

WCC No. 9712-7880

RON BEAULIEU

Petitioner

vs.

UNINSURED EMPLOYERS' FUND and HUMAN DYNAMICS, INC.

Respondent/Insurer for

EUREKA PELLET MILLS, INC.

Employer.

ORDER DENYING MOTION TO DISMISS UNINSURED EMPLOYERS' FUND

Summary: Claimant filed a petition alleging that his employer was either insured by respondent Human Dynamics, Inc. (HDI) or was uninsured. Both the UEF and HDI are named as respondents. HDI filed a response admitting that it insured the employer. It now argues this admission divests the WCC of jurisdiction to adjudicate whether the employer was insured or uninsured and moved to dismiss the UEF from the case. The UEF responds that neither HDI nor the employer had a Montana workers' compensation policy in effect. UEF is willing to adjust the claim.

Held: Motion to dismiss denied. Claimant seeks determination of whether UEF or HDI is liable for benefits to him. HDI cannot frustrate that determination through the admission, which carries no more weight than any other allegation in pleadings. The WCC has jurisdiction to determine whether the UEF is liable on the claim.

Topics:

Pleading: Admissions. In response to petition filed against both the Uninsured Employers' Fund and a corporation, the corporation admitted that it was the insurer for claimant's employer. It then moved to dismiss the UEF and argued that the WCC did not have jurisdiction to determine insured vs. uninsured status. WCC held that the corporation could not frustrate claimant's desire to have the WCC determine which entity should adjust his claim. The corporation's admission carries no more weight than any other allegation in a pleading.

Procedure: Motion to Dismiss. In response to petition filed against both the Uninsured Employers' Fund and a corporation, the corporation admitted that it was the insurer for claimant's employer. It then moved to dismiss the UEF and argued that the WCC did not have jurisdiction to determine insured vs. uninsured status. WCC held that the corporation could not frustrate claimant's desire to have the WCC determine which entity should adjust his claim. The corporation's admission carries no more weight than any other allegation in a pleading. Motion denied.

Uninsured Employers' Fund: Generally. In response to petition filed against both the Uninsured Employers' Fund and a corporation, the corporation admitted that it was the insurer for claimant's employer. It then moved to dismiss the UEF and argued that the WCC did not have jurisdiction to determine insured vs. uninsured status. WCC held that the corporation could not frustrate claimant's desire to have the WCC determine which entity should adjust his claim. The corporation's admission carries no more weight than any other allegation in a pleading.

¶1 The present petition seeks medical benefits with respect to an injury claimant suffered on April 16, 1994, while working for Eureka Pellet Mills (EPM). (Petition for Hearing.) Claimant alleges, in the alternative, that the employer was either insured by respondent, Human Dynamics, Inc., (HDI), or was uninsured. (*Id.*, ¶ II.) The Uninsured Employers' Fund (UEF) is named as a co-respondent.

¶2 HDI filed a response admitting it insured EPM. Based on its admission of liability, it moves to dismiss the UEF as a party. It urges that its admission divests the Workers' Compensation Court of jurisdiction to adjudicate whether EPM was insured or uninsured.

¶3 On its part, the UEF alleges in its response that neither EPM nor HDI had Montana approved workers' compensation policies in effect at the time of the claimant's injury. Implicit in the response is a contention that HDI is not a Plan II insurer. UEF indicates its past and present willingness to adjust the claim.

Discussion

¶4 HDI insists that there is no "dispute" since it has admitted it is the insurer. It further notes that there are other pending district court actions involving the issue of insurance coverage and HDI contends that the district court has exclusive jurisdiction over controversies between it and the UEF.

¶5 The petition in this case names both HDI and UEF. Claimant expressly pleads that EPM was either insurer or uninsured. While the petition is not a model of clarity, the naming of the UEF, and the alternative pleading, indicates that claimant is seeking a determination as to whether UEF or HDI is liable for the medical benefits he seeks. He is requesting the Court to order one or the other to pay the benefits. HDI cannot frustrate that determination

by admitting it insured claimant. Its admission has no greater weight or effect than the UEF's assertion, in its response, that HDI is not an insurer.

¶6 The Workers' Compensation Court has jurisdiction to determine whether the UEF is liable for the benefits sought by the claimant. *Neustrom v. Montana Department of Labor and Industry*, 283 Mont. 179, 186, 939 P.2d 990, 994 (1997). If HDI is an insurer, as it claims, the Court also has jurisdiction to determine what benefits it owes. Whichever respondent may be liable, the Court has jurisdiction.

¶7 HDI's motion is **denied**.

SO ORDERED.

DATED in Helena, Montana, this 2nd day of March, 1998.

(SEAL)

/s/ Mike McCarter

JUDGE

c: Ms. Laurie Wallace
Mr. Daniel B. McGregor
Mr. Andrew J. Utick
Submitted: February 26, 1998