

Court of Claims of Ohio

Victims of Crime Division

The Ohio Judicial Center

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www.cco.state.oh.us

IN RE: KURT L. HLEBAK

KURT L. HLEBAK

Applicant

Case No. V2007-90285

Commissioners:
Thomas H. Bainbridge, Presiding
Karl C. Kerschner
Tim McCormack

ORDER OF A THREE- COMMISSIONER PANEL

{¶ 1} On January 31, 2007, Kurt Hlebak (“applicant” or “Mr. Hlebak”) filed a supplemental compensation application seeking reimbursement of expenses incurred with respect to a June 22, 2006 felonious assault and menacing incident. On February 7, 2007, the Attorney General denied the claim pursuant to R.C. 2743.52(A) contending that the applicant failed to prove that he incurred additional work loss.¹ On February 12, 2007, the applicant filed a request for reconsideration. On March 27, 2007, the Attorney General determined that the previous decision warranted no modification. On April 12,

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The applicant was previously granted awards totaling \$14,851.74 for unreimbursed work loss incurred from June 16, 2006 through December 22, 2006.

2007, the applicant filed a notice of appeal to the Attorney General's March 27, 2007 Final Decision. On October 3, 2007 at 11:00 A.M., this matter was heard by this panel of three commissioners.

{¶ 2} The applicant, applicant's counsel, and an Assistant Attorney General attended the hearing and presented testimony and brief comments for the panel's consideration. Mr. Hlebak testified that he is married with two children and that he has supported his family by performing concrete work for the last 20 years. Mr. Hlebak stated that due to the criminally injurious conduct, he was placed on work restrictions which prevented him from performing his concrete duties. The applicant explained that he communicated this to his union, which tried to find him light duty assignments to no avail. The applicant also related that he applied at various businesses and contacted numerous contractors for employment, however no one was willing to hire him. The applicant introduced Exhibit 1, which is a list of contractors. Mr. Hlebak testified that he was eventually hired in May 2007 by a paving company as a supervisor.

{¶ 3} After hearing the applicant's testimony, the Assistant Attorney General stated that she had changed her position and now believes that the applicant reasonably incurred work loss from December 23, 2006 through May 2007. The Assistant Attorney General then requested that the Final Decision be reversed and that the claim be remanded to the Attorney General for economic loss calculations and decision. Applicant's counsel agreed with the Assistant Attorney General's recommendation.

{¶ 4} From review of the file and with full and careful consideration given to all the evidence presented at the hearing, we find that the applicant incurred additional work loss from December 23, 2006 through May 2007. Therefore, the March 27, 2007

decision of the Attorney General shall be reversed and the claim shall be remanded to the Attorney General for total economic loss calculations and decision.

{¶ 5} IT IS THEREFORE ORDERED THAT

- 1) The applicant's October 2, 2007 motion for telephone testimony is hereby GRANTED;
- 2) The March 27, 2007 decision of the Attorney General is REVERSED and judgment is rendered for the applicant;
- 3) This claim is remanded to the Attorney General for total economic loss calculations and decision;
- 4) This order is entered without prejudice to the applicant's right to file a supplemental compensation application, within five years of this order, pursuant to R.C. 2743.68;
- 5) Costs are assumed by the court of claims victims of crime fund.

THOMAS H. BAINBRIDGE
Presiding Commissioner

KARL C. KERSCHNER
Commissioner

[Cite as *In re Hlebak*, 2007-Ohio-7262.]

TIM MC CORMACK
Commissioner

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A copy of the foregoing was personally served upon the Attorney General and sent by regular mail to Lake County Prosecuting Attorney and to:

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To S.C. Reporter 2-14-2008