

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

PATRICIA LOWMAN,	:	
	:	
Claimant-Below/	:	C.A. No: 05A-06-004
Appellant ,	:	
	:	
v.	:	
	:	
WAL-MART STORES, INC.,	:	
	:	
Employer-Below/	:	
Appellee.	:	

Submitted: May 18, 2006

Decided: August 4, 2006

Walt F. Schmittinger, Esq., Schmittinger & Rodriguez, P.A., Dover, Delaware,
Attorney for Appellant.

Michael R. Ippoliti, Esq., Wilmington, Delaware, Attorney for Appellee.

OPINION

Upon Consideration of Appellant's Motion for Reargument
DENIED

Young, Judge

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Appellant, Patricia Lowman, moves this Court for reargument of the Court's March 28, 2006 decision, which affirmed the June 6, 2005 decision of the Industrial Accident Board ("Board"). Appellant seeks reargument on the limited issue of mileage reimbursement. This Court affirmed the Board's decision not to reimburse Appellant for transportation costs to and from her medical appointments after reviewing the record, including the medical expense exhibit attached to the transcript of the hearing before the Board. For the following reasons, Appellant's motion for reargument is **DENIED**.

STANDARD OF REVIEW

The purpose of a motion for reargument is to request that the Trial Court reconsider its findings of fact, conclusions of law, or judgment in order to correct errors prior to appeal.¹ A motion for reargument should not rehash the arguments already decided by the Court.² Moreover, a motion for reargument is not a "device for raising new arguments or stringing out the length of time for making an

¹ *Kovach v. Brandywine Innkeepers Ltd. Partnership*, 2001 WL 1198944, at *1 (Del.Super.2001)(citing *Hessler, Inc. v. Farrell*, 260 A.2d 701, 702 (Del. 1969); *Bochnowski v. Sheth*, Del.Super., 92C-05-023, Graves, J. (June 22, 1994); *Murphy v. State Farm Ins. Co.*, Del.Super., No. 96C-02-243, 1997 WL 528252, at *1, Quillen, J. (July 24, 1997) (Letter Op.)).

² *Id.*, (citing *McElroy v. Shell Petroleum, Inc.*, Del.Supr., 618 A.2d 91 (table), No. 375, 1992, Moore, J. (Nov. 24, 1992) (Order)).

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argument.’ ”³ Generally, reargument will be denied unless movant can demonstrate that the Trial Court “ ‘overlooked a precedent or legal principle that would have controlling effect, or that it has misapprehended the law or the facts such as would affect the outcome of the decision.’ ”⁴

DISCUSSION

Appellant contends that the medical expense exhibit submitted to the Board included a cover sheet, summarizing the requested medical expenses and mileage reimbursement, and the documentation in support of those costs. Included in that documentation purportedly was a mileage log, detailing the dates, places, and distances traveled for each medical visit. Appellant claims that the Board and this Court erroneously overlooked the mileage log, relying instead on the cover sheet.

That is not the case. The medical exhibit upon which this Court relied, and which is part of the record below, did not contain a mileage log. This is the same medical exhibit that was attached to the transcript of the Board hearing and the decision of the Board, which was submitted for this appeal and certified by the Administrator of the Industrial Accident Board as being a true and correct copy of the record. Appellant, however, argues that the medical expenses exhibit attached to her

³ *Denison v. Redefer*, 2006 WL 1679580, at *2 (Del.Super.)(quoting *Beatty v. Smedley*, 2003 Del.Super. LEXIS 437, at * 5.)

⁴ *Id.* (quoting *Citifinancial Mortgage, Co. v. Edge*, C.A. No. 02L-02-011 (Del. Super. 2004)(Vaughn, J.)).

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motion, which includes the mileage log, is the same exhibit she produced to the Board.

On a motion for reargument, this Court will reconsider any findings of fact that the Court misapprehended, which would affect the outcome of its decision. Appellant did not take issue with the Court's decision that any treatment Appellant received from Dr. Smith and Rehabilitation Associates was not causally related to the work accident. Accordingly, the Court's decision not to reimburse mileage to and from those appointments is not at issue. To the extent that the Court relied on the certified copy of the record below, including the medical expense sans mileage log, this Court did not err by holding that Appellant had the burden of providing documentation, specifying the dates and destinations of the mileage requested. Because the Board found that only part of Appellant's treatment was causally related to the work accident, a mileage log was necessary to identify the trips made to medical providers that were compensable.

Appellant cites *West v. Wal-Mart, Inc.*⁵ for the proposition that the Board must provide an explanation for rejecting medical expenses. Extending this ruling to include mileage reimbursement, Appellant argues that the Board erred by not providing a reason for rejecting her claim for mileage. However, *West* is inapposite.

In *West*, the claimant submitted invoices and bills in support of her claim for medical expenses, totaling \$1,200. The Board rejected claimant's request for reimbursement, complaining that the stack of bills was not organized in a fashion that

⁵ 2006 Del. Super. LEXIS 158.

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clearly delineated what the treatment was rendered for the specific disorder. On appeal, this Court held that the claimant should not be disqualified based on the means in which the medical bills were presented. In that case, however, the issue was not a lack of documentation, but the presentation of that documentation.

Not only does *West* fail to support Appellant, as the request for mileage reimbursement in this case was denied for a lack of documentation, but Appellant's motion merely rehashes the arguments presented in her appeal. A motion for reargument is not the appropriate vehicle for continuing Appellant's arguments on issues already decided by this Court.

CONCLUSION

For the aforementioned reasons, Appellant's motion for reargument is **DENIED.**

/s/ Robert B. Young

J.

RBV/sal
oc: Prothonotary
cc: Opinion Distribution