

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JAMES HOOTEN,

Appellant,

v.

CASE NO. 1D06-5489

AAA COOPER
TRANSPORTATION/CRAWFORD &
COMPANY,

Appellees.

Opinion filed December 12, 2007.

An appeal from an order of the Judge of Compensation Claims.
William H. Dane, Judge.

W. Marc Hardesty, of Hardesty, Tyde, Green & Ashton, P.A., Jacksonville, for
Appellant.

Kristy J. Gavin, of Gobelman, Love, Gavin, Wasilenko & Broughan, L.L.C.,
Jacksonville, for Appellees.

PER CURIAM.

Appellant, the claimant, was injured in an industrial accident on May 13, 1997.

He appeals a final order of the Judge of Compensation Claims (JCC) denying his

motion for attorney's fees. Appellees, the employer/servicing agent, cross-appeal the JCC's award of permanent total disability (PTD) supplemental benefits, penalties, interest, and attorney's fees and costs related to that award. Because competent, substantial evidence and Florida law support the JCC's finding no entitlement to an attorney's fee based on, and related to, Appellant's having been voluntarily administratively accepted as PTD, effective January 28, 2001, we AFFIRM that ruling. Given the parties' agreement that the subject of PTD supplemental benefits was not even scheduled for consideration at the hearing in question and, thus, was not properly before the JCC for a ruling, we agree that the JCC abused his discretion in *sua sponte* making this award. Accordingly, we REVERSE the award of PTD supplemental benefits, penalties, interest, and the attorney's fees and costs relating to that award, and REMAND this case.

BROWNING, C.J., KAHN and ROBERTS, JJ., CONCUR.