

NOT DESIGNATED FOR PUBLICATION

SHERRIE SANSON * **NO. 2000-CA-0283**
VERSUS * **COURT OF APPEAL**
DAYS INN - CLICK * **FOURTH CIRCUIT**
OPERATING CORPORATION * **STATE OF LOUISIANA**

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APPEAL FROM
THE OFFICE OF WORKERS' COMPENSATION
NO. 99-05944, DISTRICT "EIGHT"
Honorable Clara E. Toombs, Worker's Compensation Judge
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Judge Dennis R. Bagneris, Sr.
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(Court composed of Chief Judge William H. Byrnes, III,
Judge Charles R. Jones, and Judge Dennis R. Bagneris, Sr.)

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AFFIRMED

Days Inn/ Click Operating Corporation (“ Days Inn) appeals from a judgment of the office of Workers’ Compensation (“OWC”), seeking to reverse the hearing officer’s failure to approve a settlement application.

FACTS

Sherrie Sanson worked at Days Inn as a Housekeeper. On April 3, 1998 while at work she tripped and fell when she exited an elevator. She sustained injuries to her right knees and her right ankle. Dr J. Lee Moss, an orthopedic surgeon, at Southern Orthopedic Center in New Orleans, Louisiana, treated Sanson for her injuries. Dr. Moss diagnosed Sanson with right knee strain with prepattellar bursitis, right ankle strain with posterior tibia tendonitis. Sanson was treated with medication and placed on limited work status and released; however she continued to experience pain in her right ankle.

In January 1999, Sanson underwent a synovectomy of her posterior tibia tendon of her right ankle. Sanson was prescribed medication for pain and the physician recommended home exercise and physical therapy three times a week for stretching and strengthening. The physician placed Sanson on no work status after the surgery.

Sanson earned an average weekly wage of approximately \$141.04 per week at the time of her injury. Days Inn paid \$4,618.45 in worker's compensation for the period of April 3, 1998 through August 25, 1999. Also, Days Inn paid \$17,123.25 in medical expenses for Sanson. In August 1999, Sanson and Days Inn entered into a compromise settlement on her worker's compensation claim in accordance with LSA-R.S.23:1272. A joint petition for approval was submitted to the Worker's Compensation hearing officer. In chambers the hearing officer declined to approve the compromise settlement. Days Inn requested a formal hearing, which was conducted on September 27, 1999.

On September 27, 1999, the hearing officer declined to approve the compromise settlement and stated that the compromise settlement of \$2000.00 was not fair, equitable and consistent with the Worker's Compensation Act. Days Inn appeals.

DISCUSSION

On appeal Days Inn contends that the hearing officer erred in her refusal to approve the compromise settlement. We disagree.

The requirements for effecting a compromise settlement of a worker's

compensation claim are set out in subsections "A" and "B" of LSA-R.S.

23:1272 as follows:

A. A lump sum or compromise settlement entered into by the parties under LSA-R.S. 23:1271 shall be presented to the hearing officer for approval through a petition signed by all parties and verified by the employee or his dependent. The hearing officer shall determine whether the employee or his dependent understands the terms and conditions of the proposed settlement.

B. If the hearing officer finds the settlement agreement to be fair, equitable, and consistent with this Chapter, he shall approve it by order, and the order shall not thereafter be set aside or modified except for fraud or misrepresentation made by any party. The hearing officer may refuse to approve a settlement if he finds that it does not provide substantial justice to all parties.
Morris v. East Baton Rouge Parish School Bd., 93-2396 (La. App. 1Cir. 3/3/95, 653 So.2d 4).

LSA-R.S. 23:1272 was designed to provide numerous safeguards to prevent an employee from being coerced, to prevent a hasty and possibly ill-advised resolution of the employee's claim, and to protect the parties from unwise actions which may cause them serious detriment. *Colbert v. Louisiana State University Dental School*, 446 So.2d 1204, 1206 (La.1984); *Pepitone v. State Farm Mutual Insurance Company*, 346 So.2d 266, 268 (La. App. 4th Cir.1977). In order to protect the parties to the compromise settlement, especially the claimant, this statute mandates that a joint petition

be presented to the hearing officer for approval of the proposed settlement. This joint petition must be signed by all parties to the agreement and verified by the employee. LSA-R.S. 23:1272(A).

Under LSA-R.S. 23:1272, the hearing officer must approve a compromise agreement if he/she finds that the agreement is fair, equitable, and consistent with the worker's compensation statutes. The hearing officer is obligated to discuss the compromise thoroughly with the employee. The hearing officer may ask additional facts if he/she feels the petition are inadequate for him/her to assess its validity. The provisions of LSA-R.S. 23:1272 prevents a hasty and possibly ill-advised resolution of the employee's claim. *Colbert, supra*, at 1206.

In the instant case, the hearing officer conducted the formal hearing on September 27, 1999. Sanson testified that she entered a compromise settlement with Days Inn for her worker's compensation claim on August 25, 1999. She testified that she agreed to accept \$2,000.00 to settle her worker's compensation claim against Days Inn. However she withdrew her consent to the compromise settlement because she was still experiencing extreme pain in her right ankle. Further, she testified that because of the swelling in her right ankle she was unable to accept either of the new jobs as a cashier or security guard. She stated that she would be unable to perform

the required duties in either job.

After hearing Sanson's testimony, reviewing the petition for compromise settlement, the evidence and the arguments of the parties, the hearing officer again declined to approve the compromise settlement.

After careful review, we find the hearing officer did not error in not approving the compromise settlement. Sanson withdrew her consent of the compromise settlement because she was still experiencing medical problems with her right ankle. Thus, an essential requirement was lacking, that is her consent (agreement) to the compromise settlement. Therefore, the petition was no longer a joint petition for compromise settlement.

CONCLUSION

Accordingly, we find no error in the judgment rendered by the worker's compensation hearing officer. For the foregoing reasons OWC's judgment denying the petition for compromise settlement is affirmed.

AFFIRMED

