



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Text File

File Number: R-1213-53

Introduced: 9/6/2012

Current Status: Consent Item

Version: 1

Matter Type: Resolution WCC

Title

RESOLUTION NO. R-1213-53: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN OKLAHOMA, AUTHORIZING COMPROMISE SETTLEMENT OF A CLAIM FILED BY JANIE MINOR UNDER THE PROVISIONS OF THE WORKERS' COMPENSATION STATUTES OF THE STATE OF OKLAHOMA IN THE CASE OF JANIE MINOR V. THE CITY OF NORMAN, WORKERS' COMPENSATION CASE NO. WCC-2012-05528K; DIRECTING THE LEGAL DEPARTMENT TO THEN FILE SUCH SETTLEMENT AND ALL ATTENDANT COSTS IN THE WORKERS' COMPENSATION COURT, OKLAHOMA CITY, OKLAHOMA; AND AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR TO SUBSEQUENTLY PURCHASE SUCH WORKERS' COMPENSATION COURT JUDGMENTS FROM THE RISK MANAGEMENT INSURANCE FUND.

ACTION NEEDED: Motion to adopt or reject Resolution No. R-1213-53; and, if adopted, direct payment of claims in the amount of \$25,840 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

body

BACKGROUND: Janie Minor was a Property Custody Officer with the Investigations Division of the Police Department who filed Workers' Compensation Case WCC 2012-05528K on May 17, 2012, alleging injury to her back on March 19, 2012. Ms. Minor, through her attorney, has approached this office concerning settlement of her Workers' Compensation claim against the City of Norman. A settlement offer for this claim in the amount of \$25,840 is being presented to City Council for consideration.

DISCUSSION:

Nature of Claim. Ms. Minor was hired on January 13, 2003 as a Parking Service Officer. She was promoted to Property Custody Officer on December 27, 2010. At the time of her injury, she held the position of Property Custody Officer. On March 19, 2012, she injured her back when she fell in a parking lot at the Police Department. The accident was reported timely, investigated, and determined to be a legitimate on the job injury.

Medical Treatment. Ms. Minor was taken to Norman Regional Hospital by EMSStat. X-rays revealed that she had a cracked L1 vertebra. She was referred to Dr. Kimball N. Pratt for treatment. On April 3, 2012, Dr. Pratt performed a kyphoplasty procedure at the L1 on an outpatient basis. This procedure is an injection of bone cement into a compressed vertebra. After appropriate medical follow up, she was released to return to work with no restrictions on

May 14, 2012.

During Ms. Minor's absence from the Property Custody position while receiving medical treatment for the on the job injury, it was discovered that \$2,044 cash from the property custody office was missing. Investigation into that matter resulted in the filing of felony embezzlement charges with the District Attorney's office. Ms. Minor separated from City employment on May 29, 2012. On September 14, 2012, Ms. Minor entered a blind plea to the criminal charges and received an 18 month deferred sentence, assessed \$100, assessed all court costs, required to serve a six month DA supervision, required to complete 40 hours of community service within 90 days of sentencing, and required to make full restitution. Full restitution in the amount of \$2,044 was submitted to the District Attorney's restitution unit on September 14, 2012. Once processed, the embezzled monies will be returned to the City.

Issues for Trial. As noted above, the on the job injury was timely reported, investigated, and determined to be a legitimate on the job injury. The Workers' Compensation case must be handled separately from the criminal matter noted above. The criminal matter falls under the jurisdiction of the District Attorney. Should the Workers' Compensation case proceed to trial, there is no question that Ms. Minor's injury arose out of and in the course of her employment with the City. Therefore, the issue before the Workers' Compensation Court would be the nature and extent of Ms. Minor's injury or the Permanent Partial Disability (PPD) to Ms. Minor's back due to this injury. Permanent partial disability is a factual determination made by the Workers' Compensation Court Trial Judge based on doctors' opinions regarding the extent of permanent partial impairment.

Evaluations. On June 26, 2012, Ms. Minor was evaluated by Dr. Lance E. Rosson, who opined 42% PPD (body as a whole) to her back. This rating equates to \$67,830 to the body as a whole. On August 13, 2012, Ms. Minor was evaluated by the City's doctor, Kent C. Hensley who opined 8% PPD to the back which equates to \$12,920.

The Worker's Compensation Court Trial Judge is free to make a ruling within the range of the medical evidence presented at the time of trial. Therefore, the City's minimum exposure for PPD in this case is 8% or \$12,920, and the City's maximum exposure to compensate Ms. Minor for her injury is 42% PPD to the back or \$67,830.

Settlement Offer. City Staff has negotiated with Ms. Minor, through her attorney, a proposed settlement for a lump sum payment of \$25,840 which represents 16% PPD to the back, which is less than one third of the difference in the medical opinions. The Compromise Settlement offer is lower than what the City has been ordered to pay in past year in similar cases with the Workers' Compensation Court. Should this case proceed to trial, it is reasonably possible that the City could be ordered to pay more than the settlement offer.

A Compromise Settlement is beneficial to the City in that it is a full, final, and complete settlement of any and all claims in the Workers' Compensation case. This Compromise Settlement is beneficial to Ms. Minor in that it provides certainty for an award. It is also beneficial to her because the entire settlement amount is being paid in a lump sum rather than at a weekly rate over a period of time.

Furthermore, if the case was settled in this manner, the City would incur additional costs and fees of: Workers' Compensation Administration Fund Tax in the amount of \$516.80; Special Occupational Health & Safety Fund Tax in the amount of \$193.80; Workers Comp Court Filing Fee in the amount of \$140; and Cleveland County Court Filing Fee in the amount of \$125.70. These additional costs and fees total \$976.30, which brings the total cost of this Compromise Settlement to the City to \$26,816.30.

RECOMMENDATION: For the reasons outlined above, it is believed this Compromise Settlement offer is fair, reasonable, and in the best interest of the City. Acceptance of the Compromise Settlement would require the payments as outlined above. If approved, the settlement amount would be paid to Ms. Minor and her attorney in a lump sum. The Compromise Settlement would be certified to the Cleveland County District Court to be placed on the property tax rolls for collection over the next three years in accordance with 85 O.S. § 313, 51 O.S. § 159, and 62 O.S. § 361, *et seq.* Certifying the order to the property tax rolls would, in effect, reimburse the City's Workers' Compensation Fund over the next three years.