



City of Norman, OK

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

Master

File Number: GID-1314-5

File ID: GID-1314-5

Type: Court Order

Status: Consent Item

Version: 1

Reference: Item No. 43

In Control: City Council

Department: Legal Department

Cost: \$38,432.19

File Created: 06/27/2013

File Name: WC 13-00356H Jeremy Raney

Final Action:

Title: CONSIDERATION OF THE CITY ATTORNEY'S RECOMMENDATION FOR APPROVAL OF A COURT ORDER IN THE AMOUNT OF \$38,432.19 REGARDING JEREMY RANEY VS. THE CITY OF NORMAN, WORKERS' COMPENSATION COURT CASE NO. WCC-2013-00356 H.

Notes: ACTION NEEDED: Motion to approve or reject the City Attorney's recommendation; and if approved, authorize compliance with the Workers' Compensation Order and direct payment of claims in the amount of \$38,432.19 which will constitute judgment against the City of Norman.

ACTION TAKEN: _____

Agenda Date: 07/09/2013

Agenda Number: 43

Attachments: Court Award, Award Table, PR Raney

Project Manager: Jeanne Snider, Assistant City Attorney

Entered by: denise.johnson@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File GID-1314-5

Body

BACKGROUND: Jeremy Raney, currently a Heavy Equipment Operator, filed Workers' Compensation Case No. WCC 2013-00356 H on January 10, 2013, alleging injury as a result of a single injury incident on July 29, 2011. The case has proceeded through the normal litigation process. A trial was held on June 24, 2013, and the Court awarded Mr. Raney \$37,145. The Court Order is now being presented to City Council for consideration. It is recommended that the City comply with this Order.

DISCUSSION:

Nature of Claim. Mr. Raney was hired by the City on August 3, 1998 with the as a Maintenance Worker I with the Streets Division of Public Works. During his tenure with the City, he has also held the positions of Maintenance Worker II and Crew Chief. He filed a Workers' Compensation claim alleging an injury to his right shoulder on July 29, 2011 while latching a boom onto a trailer.

Mr. Raney was initially seen at Norman Regional Occupational Health. He was treated conservatively with a

regime of physical therapy. With no improvement, he was scheduled for an MRI which found a tearing of the labrum and consequently referred to Dr. David Bobb. Arthroscopic surgery was performed on July 16, 2012 for biceps tenodesis repair, acromioplasty, and distal clavicle resection of the right shoulder. After a period of physical therapy, he was returned to work with no restriction effective October 23, 2012 and reached maximum medical improvement on December 4, 2012.

Issues for Trial. There is no question Mr. Raney's injury arose out of and during the course of his employment with the City. Therefore, the only issues before the Workers' Compensation Court in this case were the nature and extent of Mr. Raney's injury. These are determined by the trial judge based on the claimant's testimony and expert medical evidence. The Workers' Compensation Court Judge is free to accept either doctors' opinion or find anywhere within the range of competent medical evidence presented.

On March 6, 2013, Mr. Raney was evaluated by Dr. Lonnie Litchfield who opined 32% PPD to the right shoulder/whole man. Dr. Litchfield's rating equates to \$51,680. The City had Mr. Raney evaluated on April 25, 2013 by Dr. Kent Hensley who opined 15% PPD to the right shoulder/whole man. Dr. Hensley's rating equates to \$24,225. The Workers' Compensation Court trial judge may make a ruling within the range of the medical evidence presented at the time of trial. Therefore, the City's maximum exposure to compensate Mr. Raney for his injuries is 32% PPD or \$51,680.

Court Award. This case was heard by the Workers' Compensation Court on June 24, 2013. After hearing the claimant's testimony and considering the expert medical evidence, the Court opined that Mr. Raney sustained 23% PPD to the right shoulder. The Court's findings are set out in Paragraph Nos. 5 and 8 of the Order as follows:

-5- THAT claimant has permanent anatomical abnormalities to his RIGHT SHOULDER which are causally related to his accidental personal injury, herein. THEREFORE, as a result of said injury, claimant sustained 23 percent permanent partial disability to the RIGHT SHOULDER (with permanent anatomical abnormality superior and posterior labral tear, impingement, surgical repairs of labral tear, supraspinatus tear, distal clavicle resection/acromioplasty, biceps tendon repair; functional loss), for which claimant is entitled to compensation for 115 weeks at \$323.00 per week, or the total amount of \$37,145.00 of which 29 weeks have accrued and shall be paid in a lump sum of \$9,367.00.

-8- THAT respondent or insurance carrier shall pay claimant the accrued portion of the award of herein in lump sum of \$9,367.00 and pay the balance of said award at the rate of \$323.00 per week until the total award of \$37,145.00 (less attorney fee) has been paid to claimant.

As can be noted in Paragraph No. 4 of the Court's Order, PPD compensation is expressed in terms of "weeks" of compensation with an accompanying "weekly wage rate." Workers' Compensation awards are normally paid at the weekly rates over a period of time. Mr. Raney's weekly wage PPD rate is \$323.00. In this instance, a portion of the award has accrued and was to be paid in a lump sum.

If approved by Council, Mr. Raney and his attorney will be paid the accrued lump sum amount and attorney's fee in the amount of \$18,088. (See Award Table attached)

The City will incur additional costs and Workers' Compensation filing fee in the total amount of \$1,161.49 as set out in Paragraph Nos. 9 and 10 of the Order, plus Cleveland County filing fee of \$125.70. (See Award Table attached)

The total cost of this Order to \$38,432.19.

RECOMMENDATION: The issues tried on June 24, 2013, were the nature and extent. The Award is within the medical evidence submitted in that the PPD award is slightly lower than one-half the difference between the medical evaluations. It is not anticipated a more favorable ruling for the City could be achieved by further litigation. It is recommended that the City move forward to comply with this Order.

Acceptance of the Order would require the payments as outlined in attached Payment Table. The Order 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.