

CASE NO. 5771 CRB-4-12-8  
CLAIM NO. 700117212

: COMPENSATION REVIEW BOARD

EDWARD FRANTZEN  
CLAIMANT-APPELLANT

: WORKERS' COMPENSATION  
COMMISSION

v.

: JULY 20, 2018

DAVENPORT ELECTRIC  
EMPLOYER

and

PEERLESS INSURANCE  
INSURER  
RESPONDENTS-APPELLEES

APPEARANCES:

The claimant was represented by Enrico Vaccaro, Esq.,  
1057 Broad Street, Bridgeport, CT 06604.

The respondents were represented by Heather K. Porto,  
Esq., Pomeranz, Drayton & Stabnick, L.L.C., 95  
Glastonbury Boulevard, Suite 216, Glastonbury, CT 06033-  
4412.

This Petition for Review from the July 26, 2012 Approval  
of Form 36 by the Commissioner acting for the Fourth  
District was heard on February 15, 2013 before a  
Compensation Review Board panel consisting of  
Commissioners Charles F. Senich, Peter C. Mlynarczyk  
and Scott A. Barton. Following oral argument the matter  
was stayed.

## OPINION

PETER C. MLYNARCZYK, COMMISSIONER. The instant appeal was the first in a series of appeals filed by the claimant. This matter was heard and following oral argument, but prior to a decision being issued by the panel, the matter was stayed so as to permit the parties to pursue settlement. There then followed additional appeals by the claimant. See Frantzen v. Davenport Electric, 5990 CRB-7-15-2 (February 24, 2016) and Frantzen v. Davenport Electric, 6091 CRB-4-16-4, which is still pending before the board. The Compensation Review Board's opinion in Frantzen v. Davenport Electric, 5990 CRB-7-15-2 (February 24, 2016), affirmed the trial commissioner on the substantive issue challenging whether the commissioner had jurisdiction to allocate attorneys' fees. The board affirmed Commissioner Michelle D. Truglia's decision that the commission had such authority but remanded the matter on procedural grounds.

At oral argument held September 25, 2015 in Frantzen v. Davenport Electric, 5990 CRB-7-15-2 (February 24, 2016), the board had some basis for belief that the instant matter was the subject of a stipulation agreement approved by Commissioner Charles F. Senich on or about May 8, 2014. However, the board was not privy to the details of the stipulation but requested of claimant's counsel that if the underlying matter was settled to please file a withdrawal of appeal regarding the instant matter. Claimant's counsel acceded to the request however no withdrawal of appeal was forwarded. On August 25, 2016, the board wrote to claimant's counsel reminding him of his agreement

and advised that if no withdrawal of appeal was filed, the board may consider the instant appeal moot. Again, no withdrawal of appeal was filed.

On March 18, 2016, the claimant appealed the board's February 24, 2016 decision in Frantzen v. Davenport Electric, 5990 CRB-7-15-2 (February 24, 2016) to the Appellate Court. Thereafter, the claimant moved for a "stay of all proceedings in this matter." See Claimant-Appellant's Motion for Stay filed October 20, 2016. The Motion for Stay was granted on October 21, 2016 and later reconsidered by the board. On February 21, 2017, the board issued its Ruling Re: Reconsideration of the October 21, 2016 Order of the Compensation Review Board Granting Appellant's Motion for Stay and affirmed its earlier ruling on the stay.

On February 27, 2018, the Appellate Court affirmed the board's opinion in Frantzen v. Davenport Electric, 5990 CRB-7-15-2 (February 24, 2016). See Frantzen v. Davenport Electric, 179 Conn. App. 846 (February 27, 2018).<sup>1</sup> On April 18, 2018 the Supreme Court denied the claimant's petition for certification to appeal the Appellate Court's decision. See Frantzen v. Davenport Electric, 328 Conn. 928 (April 18, 2018).

Given the terms of the stay filed by the claimant and the decision of the Appellate Court in Frantzen v. Davenport Electric, 179 Conn. App. 846 (February 27, 2018), we believe that any stay that existed in this matter is now concluded. We therefore conclude that the instant appeal which is the subject of this opinion, is now moot.

Commissioner Scott A. Barton concurs.

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<sup>1</sup> In its decision, the Appellate Court referenced the stipulation approved by Commissioner Charles F. Senich on May 8, 2014. Frantzen, supra, 848. Given the proceedings following the board's hearing in his matter, Commissioner Senich did not participate in the ultimate determination in this matter.