

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON

1 IN RE: CRYSTAL F. SMITH) DOCKET NO. 11 17485
2 CLAIM NO. AK-66966) DECISION AND ORDER

3 APPEARANCES:

4 Claimant, Crystal F. Smith, by
5 Williams, Wyckoff & Ostrander, PLLC, per
6 Wayne L. Williams

7 Employer, Ostrom Mushroom Farm Co., by
8 Penser NorthAmerica, Inc., per
9 Karen Lawson

10 Department of Labor and Industries, by
11 The Office of the Attorney General, per
12 Ailene Limric, Assistant

13 The claimant, Crystal F. Smith, filed an appeal with the Board of Industrial Insurance
14 Appeals, on July 8, 2011, from an order of the Department of Labor and Industries dated May 23,
15 2011. In this order, the Department affirmed a Department order dated January 11, 2011, in which
16 it closed the claim with time-loss compensation benefits as paid through January 23, 2010, with no
17 permanent partial disability award. The Department order is **REVERSED AND REMANDED**.

18 **DECISION**

19 As provided by RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for
20 review and decision. The Department filed a timely Petition for Review of a Proposed Decision and
21 Order issued on March 22, 2012, in which the industrial appeals judge reversed and remanded the
22 Department order dated May 23, 2011. On May 21, 2012, the claimant filed a response to the
23 Department's Petition for Review.

24 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no
25 prejudicial error was committed. The rulings are affirmed.

26 We agree with our industrial appeals judge's decision to keep the claim open for further
27 treatment. We have granted review solely to correct Finding of Fact Nos. 2 and 3. Our principal
28 reason for these corrections is to specify the conditions that are industrially related. The parties to
29 this appeal clearly differed regarding which knee and ankle conditions were proximately caused by
30 Ms. Smith's industrial injury. Our findings need to be clear regarding these conditions so that
31 Ms. Smith can obtain appropriate treatment, and so that her permanent partial disability can be
32 appropriately rated when her claim is ready for closure.

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FINDINGS OF FACT


1. On September 29, 2011, an industrial appeals judge certified that the parties agreed to include the Jurisdictional History in the Board record solely for jurisdictional purposes.
2. Ms. Smith sustained an industrial injury on December 8, 2009, when she slipped and fell on an icy roof while carrying heavy plumbing tools. She struck her left knee, and did the splits when she fell, landing on her right leg.
3. Ms. Smith's December 8, 2009 industrial injury proximately caused the following right knee conditions: a sprain, grade 3 chondral damage, and significant plica behind the kneecap. The latter two conditions were treated with arthroscopic surgery. This injury also proximately caused the following right ankle conditions: a complex sprain, a complex ligament strain; some partial ligament tears as well as ligament scarring, and pes anserine bursitis (goose foot). This injury also proximately caused tenosynovitis of the peroneus longus muscle in the right lower extremity.
4. As of May 23, 2011, Ms. Smith's conditions had not reached maximum medical improvement, and needed further proper and necessary medical treatment.

CONCLUSIONS OF LAW

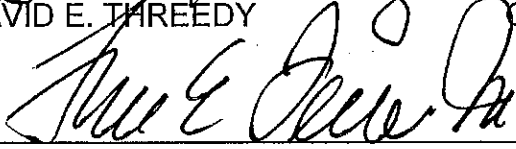
1. Based on the record, the Board of Industrial Insurance Appeals has jurisdiction over the parties to and the subject matter of this appeal.
2. Ms. Smith's right ankle and knee conditions had not reached maximum medical improvement as of May 23, 2011, and she is entitled to proper and necessary medical treatment as authorized by RCW 51.36.010.
3. The Department order dated May 23, 2011, is incorrect and is reversed. This matter is remanded to the Department to provide proper and necessary treatment.

Dated: May 25, 2012.

BOARD OF INDUSTRIAL INSURANCE APPEALS



DAVID E. THREEDY Chairperson



FRANK E. FENNERTY, JR. Member