

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON

1 IN RE: LANCE O. KNUTSON) DOCKET NOS. 16 18200 & 17 10397
2)
3 CLAIM NO. AP-00027) DECISION AND ORDER
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5 Lance Knutson injured his low back in 2010 while operating a steam roller for JR Hayes &
6 Sons. The Department issued an order on August 4, 2016, ending time-loss compensation benefits
7 effective July 30, 2016, because vocational services ended. On January 5, 2017, the Department
8 issued an order closing the claim. Mr. Knutson appealed these decisions, contending that he was
9 not employable during the periods at issue. Our industrial appeals judge reversed and remanded the
10 Department orders, directing the Department to pay time-loss compensation benefits from July 31,
11 2016, through August 4, 2016, and a pension effective January 5, 2017. Mr. Knutson requests
12 time-loss compensation benefits for the entire period from July 31, 2016, through January 4, 2017,
13 before the effective date of the pension. We have granted review because the evidence in the record
14 supports payment of time-loss compensation benefits for this period. The Department orders are
15 **REVERSED AND REMANDED** to the Department to pay time-loss compensation benefits from
16 July 31, 2016, through January 4, 2017, and a pension effective January 5, 2017.
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23 **DISCUSSION**

24 We have granted review to amend the findings of fact and conclusions of law to include a
25 period of time-loss compensation benefits from August 5, 2016, the day after the first Department
26 order on appeal, through January 4, 2017. This period of time-loss compensation benefits was
27 litigated by the parties and is within the Board's scope of review in Mr. Knutson's appeal of the
28 January 5, 2017 closing order,¹ but was not addressed in the Proposed Decision and Order.
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32 The Proposed Decision and Order contains a thorough summary of the relevant evidence,
33 with the exception of a summary of the expert witnesses' testimony concerning the period of August 5,
34 2016, through January 4, 2017. This included the testimony of H. Richard Johnson, M.D., who stated
35 that Mr. Knutson was permanently restricted from performing the job of office helper, primarily
36 because he lacked the vocational skills, even though Mr. Knutson had attended an online computer
37 training course for office clerical work; and the testimony of Karin Larson, VRC, who stated that
38 Mr. Knutson is not capable of obtaining and performing reasonably continuous gainful employment
39 from August 2016 through January 5, 2017, and going forward because he does not have the skills
40 to be competitively employable.
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47 ¹ *In re Randy Jundul*, BIIA Dec., 98 21118 (1999).

1 We agree with our industrial appeals judge that workers must be able to perform and obtain
2 substantial gainful employment generally available in their local labor market. In this case, while
3 Mr. Knutson can physically perform the position of an office helper position, the preponderance of
4 evidence establishes that he lacks the skills to obtain this type of position. As a result, we find that
5 Mr. Knutson is entitled to time-loss compensation benefits from July 31, 2016, through January 4,
6 2017, and a pension effective January 5, 2017.
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10 **DECISION**

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12 1. In Docket No. 16 18200, the claimant, Lance O. Knutson, filed an appeal with the Board of
13 Industrial Insurance Appeals on August 19, 2016, from an order of the Department of Labor and
14 Industries dated August 4, 2016. In this order, the Department ended time-loss compensation
15 benefits on July 30, 2016, because vocational services ended. This order is incorrect and is
16 reversed, and this matter is remanded to the Department to pay the worker time-loss
17 compensation benefits from July 31, 2016, through January 4, 2017.
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19 2. In Docket No. 17 10397, the claimant, Lance O. Knutson, filed an appeal with the Board of
20 Industrial Insurance Appeals on January 11, 2017, from an order of the Department of Labor and
21 Industries dated January 5, 2017. In this order, the Department closed the claim with a Category 4
22 permanent dorso-lumbar and/or lumbosacral impairment. This order is incorrect and is reversed,
23 and this matter is remanded to the Department to pay the worker a pension effective January 5,
24 2017.
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30 **FINDINGS OF FACT**

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32 1. On October 18, 2016, and February 14, 2017, an industrial appeals judge
33 certified that the parties agreed to include the Jurisdictional Histories in
34 the Board record solely for jurisdictional purposes.
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36 2. Lance Knutson sustained an industrial injury on October 18, 2010, when
37 he bent over to retrieve a piece of garbage off the floor of his steam roller
38 and herniated his low back and aggravated two preexisting lumbar
39 surgeries.
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41 3. Mr. Knutson was 39 years old at the time of his hearing, had a high school
42 education with additional vocational training in HVAC, and had retraining
43 in basic office skills and computing. He had past relevant work as a green
44 chain puller, HVAC technician, and heavy equipment operator. He had
45 preexisting recurrent disc herniations at L4-5 and L5-S1; status post
46 laminectomy and discectomy at L4-5 and L5-S1; left L5 and S1
47 radiculopathy with associated weakness and sensory deficits;

