

BONNIE BOTTINO

v.

MAINE MEDICAL CENTER et al.

Submitted On Briefs November 27, 2007

Decided February 28, 2008

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER, and GORMAN, JJ.

MEMORANDUM OF DECISION

Bonnie Bottino appeals from decisions of a Workers' Compensation Board hearing officer (*Collier, HO*) dismissing her petition for award without prejudice and denying her motion to reinstate the petition. The hearing officer dismissed the petition pursuant to Me. W.C.B. Rule, ch. 12, § 13(4), for failure to timely file a joint scheduling memorandum. Bottino asserts that the hearing officer abused his discretion by failing to reinstate the petition because the statute of limitations had expired since she filed the original petition, effectively resulting in a dismissal with prejudice. She further contends that in this case, Me. W.C.B. Rule, ch. 12, § 13(4), has operated in a manner inconsistent with its own purpose (to expedite the dispute

resolution process) and the general purposes of the Workers' Compensation Act (to compensate injured employees); thus, we should not defer to the hearing officer's interpretation of the Rule.

Me. W.C.B. Rule, ch. 12, § 13(4), expressly authorizes the dismissal of a party's petition when that party has failed to timely file a joint scheduling memorandum. Therefore, the hearing officer acted within his discretion when dismissing Bottino's petition without prejudice. Because we find no direct conflict between W.C.B. Rule, ch. 12, § 13(4), and either the purpose of the rule or any particular provision of the Workers' Compensation Act, we defer to the hearing officer in this matter. *See Jasch v. Anchorage Inn*, 2002 ME 106, ¶ 10, 799 A.2d 1216, 1218-19.

The entry is:

The decision of the Workers' Compensation Board hearing officer is affirmed.

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