## **Tyler, Cortez**

## **DEPARTMENT**

Reassumption of jurisdiction (RCW 51.52.060)

Where the Department has held in abeyance an order previously appealed, pursuant to the provisions of RCW 51.52.060, and issued a further affirming order after the time allowed for doing so has passed, it may not thereafter hold such order in abeyance for further consideration. The Department cannot artificially extend the time for reconsideration as allowed by the Legislature. ....In re Cortez Tyler, BIIA Dec., 90 3483 (1990)

Scroll down for order.

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## BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS STATE OF WASHINGTON

IN RE: CORTEZ M. TYLER	)	<b>DOCKET NO. 90 3483</b>
	)	
CLAIM NO. K-702554	)	ORDER DENYING APPEAL

An "amended protest and notice of appeal" was filed by the claimant, on July 9, 1990 from an order of the Department of Labor and Industries dated "August 24, 1989." The order held an order dated August 23, 1989 in abeyance pending further consideration and the entering of a further determinative order. The order of August 23, 1989 affirmed an order of November 18, 1988 closing the claim. It is not clear whether the claimant has intended to appeal the order of August 24, 1989 or a later order of September 6, 1989. However, in either case the appeal is denied.

We have previously granted the claimant's appeal of the order dated August 23, 1989 (Docket No. 89 4781). In doing so we implied that the Department was without jurisdiction or authority to issue either the order of August 24, 1989 or a subsequent order dated September 6, 1989 which affirmed the order of November 18, 1988.

The claimant had previously appealed the order of November 18, 1988 to the Board (Docket No. 89 0296). We denied that appeal after the Department had entered an order on February 23, 1989 which held the order of November 18, 1988 in abeyance. At the time the Department entered the order of August 23, 1989 the time for further consideration allowed the Department by RCW 51.52.060 had long since passed. The Department could not artificially extend the time for reconsideration as allowed by the Legislature by entering a further abeyance order and purporting to continue to reconsider the order of November 18, 1988.

The orders of August 24, 1989 and September 6, 1989 are null and void and the order of August 23, 1989 remains the final order of the Department. The appeal of the order dated "August 24, 1989" is therefore denied, without prejudice to the right of the claimant to challenge the correctness of the order of August 23, 1989 in the appeal assigned Docket No. 89 4781 which is still pending at this Board.

It is so ORDERED.

Dated this 10<sup>th</sup> day of August, 1990.

BOARD OF INDUSTRIAL INSURA	NCE APPEALS
FRANK E. FENNERTY, JR.	MEMBER
/s/	
PHILLIP T. BORK	MEMBE