

Favaloro, Louise

APPEALABLE ORDERS

Interlocutory orders

The Department cannot insulate a decision to terminate time-loss compensation from Board review by characterizing the decision as "interlocutory." If the worker desires to appeal such a decision to the Board it is the worker's right to do so. ...*In re Louise Favaloro*, BIIA Dec., 90 5892 (1990)

Scroll down for order.

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

IN RE: LOUISE S. FAVALORO) DOCKET NO. 90 5892
CLAIM NO. K-514792) ORDER DENYING APPEAL

An appeal was filed by the claimant, on November 5, 1990, from an order of the Department of Labor and Industries dated September 13, 1990. The order held an order dated August 15, 1990 in abeyance pending review and such further action as may be indicated. The order provided that upon completion of this action a further determinative order would be entered. The order of August 15, 1990 had terminated time-loss compensation with payment for the period July 16, 1990 through August 14, 1990.

We denied the claimant's prior appeal of the August 15, 1990 order (Docket No. 90 4586) on the strength of the Department's September 13, 1990 order. It was an order lawfully entered under the provisions of RCW 51.52.060. This appeal from the order of September 13, 1990 is therefore denied.

We do note that on September 14, 1990 the Department entered a further order modifying the order of August 15, 1990 from final to interlocutory. The stated reason was "to avoid piecemeal litigation." It is clear that the Department was thereby adhering to its decision to terminate time loss, but attempting to insulate that decision from Board review at this time. On September 28, 1990 we received the claimant's appeal of the September 14, 1990 order (Docket No. 90 5097). That appeal was granted by this Board. In our view the claimant has a right to contest the Department's decision to terminate time loss. The Department cannot characterize its decision as "interlocutory" and thereby attempt to prevent Board review of its decision. If the claimant desires to appeal the decision to terminate time loss at this time, instead of at a later time, it is her right to do so.

The denial of this appeal of the order of September 13, 1990 is, of course, without prejudice to the right of the claimant to pursue the appeal of the September 14, 1990 order. It is also without prejudice to the right of any party to appeal any further order concerning the administration of this claim (e.g., an order closing the claim).

It is so ORDERED.

Dated this 10th day of December, 1990.

BOARD OF INDUSTRIAL INSURANCE APPEALS

/s/ _____
SARA T. HARMON CHAIRPERSON

/s/ _____
FRANK E. FENNERTY, JR. MEMBER

/s/ _____
PHILLIP T. BORK MEMBER