

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Karen Hathaway

Opinion No. 39A-11WC

v.

By: Phyllis Phillips, Esq.
Hearing Officer

C & S Wholesale Grocers, Inc.

For: Anne M. Noonan
Commissioner

State File No. Z-58166

**RULING ON CLAIMANT'S MOTION FOR AWARD OF INTEREST, PENALTIES
AND ATTORNEY FEES**

The Commissioner previously decided this claim in Claimant's favor on November 17, 2011. As Claimant had prevailed, the Order included an award of attorney fees. Claimant had requested \$13,168.00; from this amount the Commissioner deducted \$500.00. Defendant was granted two weeks within which to decide whether to challenge the reasonableness of the remaining fees, totaling \$12,668.00.

Defendant did not move to challenge the remaining fees within the two-week period. Therefore, I consider the award of \$12,668.00 in attorney fees to have become final on December 1, 2011. To date, Defendant has failed to remit payment of that amount to Claimant.

Claimant now seeks an award of interest, penalties and attorney fees as a consequence of Defendant's failure to pay.

Citing to 21 V.S.A. §650(e), Claimant requests that Defendant be assessed a ten percent penalty for failing to pay attorney fees as ordered. By its plain language, that section applies only to "weekly compensation benefits or weekly accrued benefits" that are not paid in a timely manner. It does not apply to unpaid attorney fees. There is no basis in the statute, therefore, for the penalty Claimant seeks.

As for Claimant's claim for interest and for the attorney fees incurred in pursuing the current motion, the Commissioner lacks jurisdiction to make such an award given the circumstances presented here. Rather, under 21 V.S.A. §675(a) Claimant's remedy lies "in any court of law having jurisdiction of the amount involved."

For the foregoing reasons, Claimant's Motion for award of interest, penalties and attorney fees is hereby **DENIED**.

DATED at Montpelier, Vermont this 13th day of March, 2012.

Anne M. Noonan
Commissioner